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CONTESTED-ELECTION CASE

OF

PETER F. TAGUE

V.

JOHN F. FITZGERALD

FROM THE

TENTH CONGRESSIONAL DISTRICT
OF MASSACHUSETTS



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CONTESTED-ELECTION CASE
OF
PETER F. TAGUE v. JOHN F. FITZGERALD,
FROM THE
TENTH CONGRESSIONAL DISTRICT OF MASSACHUSETTS.

NOTICE OF CONTEST.

BOSTON, MASS.,
December 26, 1918.

HON. JOHN F. FITZGERALD,
39 Wells Avenue, Dorchester, Mass.

DEAR SIR: You are hereby notified that I, Peter F. Tague, shall contest before the House of Representatives of the Sixty-sixth Congress of the United States your right to a seat in that body as a Member from the tenth congressional district of Massachusetts, which you claim to hold as a result of the election held on November 5, 1918, on which date you and I were candidates for the said office of Congressman. I shall contest your right to the election and to the seat in said Sixty-sixth Congress for the following reasons, to wit:

I. At the Democratic primary held on September 24, 1918, at which you and I were candidates, I claim that I received more votes than you and that I should have had the nomination of the Democratic Party.

(a) At the said primary you were fraudulently credited with votes which did not belong to you, and I was fraudulently denied votes which should have been counted for me. The names of soldiers who were absent on the field of battle or serving their country were fraudulently voted on, and also the names of those who were in the naval service and who were absent from the city, particularly the names of some of the sons of your associates and prominent supporters. The said primary was not conducted in accordance with the requirements of the law of Massachusetts.

(b) Ballot boxes were illegally used.

(c) Many names of those who were unable to vote or did not vote in person were fraudulently voted on.

(d) Several hundred votes were fraudulently cast for you in wards 5 and 6 in Boston, by voters who lived outside the district and who had no right to vote in said wards 5 and 6.

(e) Ballots were procured for use in ward 5 in violation of law, and in other details the said primary was illegal and fraudulently conducted in defiance of State and Federal laws.

II. At the recount which was asked for in accordance with the statutes of Massachusetts, the election commissioners of the city of Boston, which held the recount, in defiance of the law of Massachusetts, refused to count for me more than 100 ballots which should have been counted for me, and which if counted, would have resulted in a decision from the election commission of the city of Boston, giving me more votes at the said primary than was accorded to you.

(a) The said election commission of the city of Boston conducted the said recount in an illegal manner and against all custom and law.

(b) They refused to protect the ballots; they refused information as to where the ballots were kept and as to how they were protected. The ballot boxes were kept in vaults to which anybody had access during the day. One

of the election commissioners so conducted himself by publicly announcing that "even though he were wrong, he was glad he was wrong and would stay wrong."

(c) For the purpose of preventing me from protecting my rights, the said election commission deliberately, fraudulently, and willfully delayed the recount for over a week with the purpose thereby of depriving me a proper appeal for the protection of my rights to the people of the tenth congressional district, and other legal redresses.

(d) Said commission refused to abide by the advice of the corporation counsel of the city of Boston to permit me to see the ballots.

III. Because the hearing before the ballot law commission of the Commonwealth of Massachusetts was conducted in an illegal, fraudulent, improper, prejudiced manner by the said ballot law commission, more specifically as follows:

(a) Many witnesses summoned by the legal authority of the commission, the sergeant at arms, either refused to come when so summoned or the sergeant at arms was unable to locate them at their home residences or anywhere else within his jurisdiction. Said witnesses were kept from the hearing by the influence of your manager, viz., Martin M. Lomasney, and members of the Hendricks Club of ward 5, who were in constant attendance at the hearings, conducting the case in your behalf.

(b) The commission refused to summon witnesses, although their names and addresses and sufficient money to summon said witnesses were in the possession of the commission.

(c) The commission refused to hear any evidence or consider illegal voting in said primary election.

(d) The commission refused to allow cross-examination of many witnesses.

(e) The commission refused to allow testimony by police officers concerning voters whose registration and illegal voting was alleged and who were summoned for the purpose of proving that they were not entitled to vote and that they had voted for Fitzgerald.

(f) Although said commission kept hampering and urging speed and refusing time to adequately examine witnesses, the said commission fraudulently withheld its decision several days and until a few minutes before the ballots had to be printed, for the purpose of thereby preventing me from appealing to the courts of Massachusetts for the protection of my rights and reversal of their decision.

(g) Because counsel for you admitted 37 cases of illegality and fraud.

(h) The commission in its report, found that fraud prevailed in the said primary election.

IV. As a consequence of the delay of the Massachusetts ballot law commission in rendering their decision, it was necessary for me to run on stickers, because it was impossible to get my name printed on the ballots, the said ballots having already been printed by the State printer, and the time having expired for independent nominations before the primary took place.

V. Said election was conducted in an illegal and fraudulent manner to wit:

(a) By permitting several hundred men to vote in ward 5 and 6 who were not entitled to vote there and who lived outside the district and have continued to live outside the district for many years.

(b) When an attempt was made to challenge said voters, those who questioned them were assaulted and coerced from the polling booths where said illegal voting was going on so that it became impossible to challenge said illegal voters.

(c) Your agents pretending to be advocates of myself, stood at the polling booth in the East Boston wards, fraudulently handing out stickers with my name on them but with no gum attached to said stickers so that when said stickers were placed on the ballots, instead of adhering thereto, they naturally fell off and disappeared in the handling of said ballots, thereby fraudulently depriving me of many votes in said wards, all for the purpose of preventing the voter from expressing his choice and voting for me.

(d) Money was used at said election in defiance of Federal law, voters being promised money for voting for you.

(e) In ward 5 the large vote which was cast for you was composed in great part of those who had been colonized in said ward for the purpose of manipulation by the political organization of said ward, which colonization and illegal registration and illegal voting was contrary to the State and Federal law.

(f) The returns from said ward 5 were withheld until all other precincts were heard from, although the office of the election commissioners to which returns are to be made is located in ward 5, and the booths in which said counting took place are the nearest to the city hall of the city of Boston, to which the returns of the election must be made.

VI. The recount of said election, which I petitioned for in accordance with law, was conducted illegally, improperly, and my rights were grossly violated.

(a) By said election commission refusing to count for me several hundred stickers with my name thereon, which had been placed on the ballots indicating the intention of the voter to vote for me.

(b) Refusing to count many ballots on which my name was written by the voter.

(c) By counting for you many ballots, all of which were manifestly intended for me or should not have been counted for you.

(d) By refusing to count for me ballots on which it was manifested that a sticker had been placed, but which had been removed or which had fallen off.

(e) By refusing to count for me over 100 ballots, wherein the sticker had been marked for me but wherein the ballot had been tampered with by a cross against some other candidate's name.

(f) By refusal on the part of the election commission, as required by law, to consider and decide the votes which had been challenged at said election.

(g) By the conduct of the commissioners as expressed by one of the commissioners, who said he would not sign a corrected return.

(h) By other misconduct on the part of individual election commissioners and officials, thereby showing the prejudice in your favor and against me.

You are further notified that in this contest I shall ask that all of the illegal, improperly marked, improper, fraudulent votes cast for you and counted for you shall be thrown out and excluded; and all votes cast for me at said primary and election and which in the canvass of the result of the primary and election were disregarded, disallowed, and excluded be counted and allowed to me, and that all the votes properly and legally cast should be counted, and that when a correct count is made of the legal votes actually cast for you and for me that the return as made by the board of election commissioners and canvassing board be set aside, and that your certificate of election to said office be issued to me.

You are further notified that within the time and the manner now provided, or within such time as may be fixed by the order of the said House of Representatives, I shall, if so advised, amend the foregoing notice and supplement the same, with other and further grounds of contest.

You will take due notice that I shall demand a recount and a recanvass of all the votes cast for the office of Congressman for the tenth congressional district of Massachusetts at the primary on September 24, 1918, and election held November 5, 1918, and a complete investigation of the several charges and allegations set forth in this notice of contest, and that by reason of the facts herein stated I shall demand a seat in the Sixty-sixth Congress from the tenth congressional district of Massachusetts.

Very truly, yours,

PETER F. TAGUE.

SUFFOLK, ss:

BOSTON, *December 30, 1918.*

I have this day at 45 minutes past 6 o'clock p. m. served the within notice upon the within-named Hon. John F. Fitzgerald, by delivering to him in hand a notice of which the within is a duplicate notice.

Fees.—Service, \$1; copy, \$1; travel, 10 cents; total, \$2.10.

EDMUND P. KELLY,
Deputy Sheriff.

ANSWER TO NOTICE OF CONTEST.

And now comes John F. Fitzgerald, the contestee, who, on November 5, 1918, was returned as elected a Representative in Congress from the tenth Massachusetts congressional district by a plurality of 238 votes, and says:

That the contestee had served this district for three terms in Congress; that for 6 years he had been mayor of Boston; that for 30 years he had been prominent in the civic life of Boston; and that during all these years had occupied a position of recognized leadership in the political life of the city; that he

had been an active advocate of the use of Boston Harbor as a great shipping port, and has always been active in trying to make Boston a great commercial and industrial center; that within this congressional district are all the large business establishments of Boston, and that in response to the insistent demands of many leading citizens in the civic and commercial life of Boston the contestee became a candidate for Congress, was elected fairly, properly, and legally, and not through the violation of any State or Federal laws, rules, or regulations.

And more particularly answering the grounds, reasons, and points of contest contained in the notice and alleged specifications of the contestant, the contestee says:

1. That the contestant's first and second specifications set out allegations substantially and materially the same as were considered and passed upon by the State ballot-law commission, upon a petition by said contestant objecting to the nomination of said contestee, said commission having final jurisdiction over contested primary elections. (Acts and Resolves of the Commonwealth of Massachusetts for the year 1913, chap. 835, sec. 214.) Wherefore the contestee objects to present consideration of the grounds, reasons, and allegations contained in the contestant's first and second specifications and the subdivisions thereof.

And as a further cause for demurrer, the contestee says that primary elections are wholly and peculiarly within the jurisdiction of the State authorities, and entirely outside the purview of a congressional committee examining into a contested election.

Without waiving the above demurrer, the contestee denies each and every allegation set forth in the first and second specifications and the subdivisions thereof. And further answering, the contestee says that the said ballot-law commission unanimously made the following findings:

"The issues heard by us were illegal voting and alleged fraud on the part of the election commissioners of the city of Boston in conducting the recount of votes cast for this nomination in the primaries on September 24, 1918.

"Because of the importance of these issues bearing upon the integrity of the election and the conduct of a public board we file this memorandum with our decision.

"The fraud alleged on the part of the election commissioners consisted in the obtaining of 1,000 additional ballots from the State printer on the afternoon of the primary to provide for anticipated shortage; and the delay in granting Mr. Tague an inspection at the recount of the unused ballots in an endeavor to discover 50 Democratic ballots claimed to have been cast and not counted in ward 5, precinct 4. It appeared that the crank of the registering ballot box could not be found at the opening of the polls at 6 a. m., whereupon the emergency ballot box was used until 8.15 a. m., when the ballots taken in the emergency box were publicly, one by one, taken out and transferred to the registering ballot box. The ballots cast and not cast in this precinct were counted by us and the names checked on the voting list agreed with the total number of ballots cast. The total of ballots cast and not cast also agreed with the number of ballots furnished by the secretary of the Commonwealth.

"We find that this use of the emergency ballot box and the transfer of the ballots to the registering ballot box were not fraudulent and they in no way affected the result of the election.

"In ward 5, precinct 3, the canceling device of the registering ballot box did not print the precinct number, although the cancellation in all other respects was perfect. This could not be discovered until the polls were closed and the ballot box was opened. It was claimed that the ballots in this precinct should all be rejected because of this defect. The voters who voted in this precinct can not be disfranchised by this defect of the canceling device.

"Minor irregularities on the part of some of the precinct officers were shown, but they in no way affected the result.

"The rule of law governing us on this branch of the case is stated by Attorney General Pillsbury in Russell's Massachusetts Election cases, page 52: 'It is a settled rule of election law that mistakes or fraud of election officers shall not invalidate a vote lawfully and regularly cast, and that is a salutary rule in the interest of the public no less than of the voter.'

"Three cases of illegal voting upon the names of registered civilians were proved.

"It was alleged that 17 illegal votes were cast upon the names of soldiers and sailors in the United States service claimed to be absent at camps or sta-

tions, so that they could not have been in Boston on the days of the primaries. In five cases this has been proved. In the remaining 12 cases information of the whereabouts of these men on the day of the primary which we have sought by direct communication with the Army and Navy has not been received.

"The law governing cases of illegal voting is stated by the Supreme Court of this Commonwealth in *First Parish v. Stearns*, 21 Pickering, 148, and in the contested election case of *Alexander v. Doyle*, Russell's Massachusetts Election cases, page 57; the latter case decided in 1894, since the adoption of the Australian ballot system.

"The rule in these cases is that in order to set aside the election of a person it is necessary not only to prove that fraudulent votes were cast at the election, but also for whom they were cast, and that the number was sufficient to change the result.

"Applying the above rule and assuming that all those were illegal votes and were cast for John F. Fitzgerald, which has not been proved, the result would not be changed, for if all of these illegal and alleged illegal votes were taken from his total number he would still have a majority of the votes cast.

"HENRY V. CUNNINGHAM.

"FRANCIS W. ESTEY.

"THOMAS M. VINSON."

2. The contestee denies each allegation contained in the third specification and all the subdivisions thereof except (c); and in answer thereto, says, that the ballot law commission refused to consider the question of registration of voters because it was a matter wholly within the jurisdiction of the Board of Election Commissioners (Acts of 1918, chap. 81).

And further answering, the contestee says that the contestant was given every opportunity to establish his objections to the nomination of the contestee, the hearing having begun October 8, and concluded October 29, 1918, being the longest and most exhaustive inquiry ever conducted by the ballot law commission.

And further answering, the contestee says that the contestant filed his objections to the nomination of said contestee on October 7, whereas, in compliance with statutory requirements, it was necessary to file them no later than 5 p. m. September 30, 1918. (Acts of 1913, chap. 835, sec. 204.) Notwithstanding the contestant's failure to comply with the law, the ballot law commission decided to, and did, hear his objections; and with this decision by the commission to give the contestant every fair and reasonable opportunity to prove his case, the contestee heartily agreed and publicly announced his wish for the fullest inquiry.

3. The contestee denies that there was any delay on the part of the ballot law commission as set forth in the fourth allegation. And further answering says that the time taken by the commission in no way prevented his name from being printed on the ballot, for if their decision had been made on the very day that the objections were filed, it would have been impossible for the contestant's name to have been printed on the ballot, because the last time for filing independent nominations was September 26, 1918 (Acts of 1918, chap. 293, sec. 33).

4. The contestee denies each and every allegation in the fifth specification and specifically answering (b) of said specifications, the contestee says that the contestant had every opportunity to investigate the question of registration of voters and, if any were illegal, to have them stricken from the voting list in the manner prescribed by acts of 1916; chapter 81, but he failed to do so.

5. The contestee says that the recount of said election was conducted legally, with the greatest degree of fairness, and with the utmost publicity; that each contested ballot was examined, considered, and counted in the presence of the contestant, his counsel, and representatives of all the Boston daily newspapers; and every doubtful ballot was credited to the contestant.

Specifically answering subdivision (a) of the sixth specification, the contestee admits that there were some ballot upon which there was a sticker with the contestant's name thereon, but without the cross opposite the name, as required by the law of Massachusetts.

Specifically answering subdivision (b) of the sixth specification, the contestee admits that there were a few ballots wherein the contestant's name was written but without a cross opposite the name, as required by the law of Massachusetts.

The contestee specifically denies the allegations contained in subdivision (c) of the sixth specification.

The contestee specifically denies the allegations contained in subdivision (d) of the sixth specification.

The contestee specifically denies the allegation contained in subdivision (e) of the sixth specification.

The contestee specifically denies the allegation contained in subdivision (f) of the sixth specification and further says that there is no Massachusetts law that requires the board of election commissioners to decide challenged votes, but on the contrary, there is a statute which clearly and unequivocally prohibits them from disclosing any information relative to a ballot cast by a challenged voter (Acts of 1913, chap. 835, sec. 333).

The contestee specifically denies the allegations contained in subdivision (g) of the sixth specification.

The contestee specifically denies the allegations contained in subdivision (h) of the sixth specification.

And the contestee reserves the right within the time provided by law, or within such time as may be fixed by special order of the House of Representatives to amend this answer and supplement the same by answering further.

JOHN F. FITZGERALD.

COMMONWEALTH OF MASSACHUSETTS,
Boston, January 25, 1919.

SUFFOLK, ss:

I this day left an attested copy of the within notice at the last and usual place of abode of Peter F. Tague, viz: No. 21 Monument Square, Charlestown District, Boston.

Fees.—Service, \$1; copy, \$1; travel, 30 cents; total, \$2.30.

DANIEL A. WHELTON,
Deputy Sheriff.

TESTIMONY FOR CONTESTANT.

THE COMMONWEALTH OF MASSACHUSETTS,
OFFICE OF THE SECRETARY.
Boston, May 7, 1919.

I hereby certify, that on the 24th day of February, 1915, Abraham C. Berman was appointed and commissioned and on the 31st day of March, 1915, duly received the qualifying oaths thereunder, as a notary public for this Commonwealth, for the term of seven years from the date of said commission; that, as such notary public he is by law authorized to administer oaths and take acknowledgments of deeds or conveyances of land, tenements, or hereditaments and other instruments throughout the Commonwealth to be recorded according to law; and that to his acts and attestations, as such, full faith and credit are and ought to be given, in and out of court.

In testimony of which, I have hereunto affixed the great seal of the Commonwealth the date first above written.

[SEAL.]

ALBERT P. LANGTRY,
Secretary of the Commonwealth.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

I hereby appoint Gertrude S. Cole, Nancy H. Harris, and Dora H. Barnes official court stenographers to receive and reduce to writing the evidence of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, after having duly administered an oath to them to truly and correctly record and transcribe all of the evidence taken before me.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

Testimony taken in room 443, Federal Building, Boston, Mass., February 19, 1919, at 10.20 a. m., before Abraham C. Berman, Esq., and David Mancovitz, Esq., as notaries public.

Counsel: Hon. Joseph F. O'Connell, Arthur Harrington, Esq., Frank A. Goodwin, Esq., for contestant; John P. Feeney, Esq., Timothy F. Callahan, Esq., Vincent Brogna, Esq., for the contestee.

Hon. PETER F. TAGUE, sworn:

Mr. O'CONNELL. Mr. Abraham C. Berman was chosen as notary public to preside at the taking of the testimony in this contest. Notice of the same was conveyed to the Hon. John F. Fitzgerald on February 13, and Mr. Berman is now here ready to take the testimony.

Mr. CALLAHAN. In this case, Mr. Fitzgerald, the Congressman-elect, is out of town, and he has designated Mr. Feeney and myself as counsel, and has designated Mr. Mancovitz to sit in the hearing of the testimony. Mr. Mancovitz is a notary public, and I believe he qualifies under the statute. We are ready to go ahead.

Mr. O'CONNELL. The following letter of notice was sent in accordance with the provisions of the Revised Statutes, to the contestee, Boston, Mass., February 12, 1919, to Congressman John F. Fitzgerald.

Mr. O'CONNELL. Mr. Tague, will you take the stand, please.

Mr. FEENEY. Don't you think you better put in the pleadings so they will be part of the record?

Mr. O'CONNELL. I suppose we can agree the following two notices, the notice and reply, were both received by each of the parties. The following notice was sent to John F. Fitzgerald, Boston, Mass., December 26, 1918 (omitted in printing, being duplicate of notice of contest).

Mr. O'CONNELL. The answer is as follows (omitted in printing):

Mr. FEENEY. Does it give the date of the service?

Mr. O'CONNELL. It doesn't say. Following is the officers' return, with service of notice upon us.

Mr. FEENEY. There is a demurrer filed in the answer here, which it seems to me ought to be argued before evidence is introduced. That is relative to the question as to whether or not, either at this hearing or any subsequent hearing, the counsel for Mr. Tague has the right to go into any matter which precedes the primaries, or has anything to do with the primaries or congressional nomination. That, of course, we take advantage of by demurrer, and we shall take advantage of it if this board rules it can be put in by way of evidence, but we should like to hear you on the question of demurrer at this time.

Mr. O'CONNELL. This body, Mr. Berman sitting for us, has no power to hear this, neither has Mr. Mancovitz sitting as the representative of Mr. Fitzgerald. This is a proceeding, as I understand it, simply to take the testimony, the question of law will be decided by the congressional committee. These judges have no power to decide questions of law, and it will be an idle proceeding to attempt to discuss questions of law with them, so that I am not willing to discuss at this time questions that will have to be discussed later on before the committee.

Mr. FEENEY. The question which I have in mind is this—I agree quite fully with what my friend says, except I do not want to have it claimed by my brother at any subsequent time that we waived our demurrer set forth in that answer; therefore, now before any evidence is taken, and at what I deem the proper time, I now offer to argue the question of demurrer before this board, and to submit authority to you now, which I am certain will convince you that neither this board nor any committee in Congress has authority to go into the question of the primary contest on congressional questions.

Mr. MANCOVITZ. Do you object to hearing the demurrer?

Mr. BERMAN. I am ready to hear on the demurrer.

Mr. FEENEY. Do I understand you object to arguing the demurrer at this time?

Mr. O'CONNELL. Absolutely. I am not going to argue any questions at this time, as both of us know these men haven't any power to decide. Congress is the body to hear this.

Mr. MANCOVITZ. I presume it might go on record that it is agreed that you are not to argue the demurrer?

Mr. FEENEY. The record will show that I offered to argue the demurrer at the present time. I assume the record will show that, and my brother will assure me that we have not waived any claim to argue the demurrer?

Mr. O'CONNELL. That's true. That's the understanding. Now, Mr. Tague, will you take the stand.

(Mr. Tague sworn in at this time by Abraham C. Berman, notary public.)

By Mr. O'CONNELL:

Q. Your name is Peter F. Tague?—A. Yes, sir.

Q. You are the present Member of Congress from the tenth Massachusetts district?—A. I am.

Q. And you reside at 21 Monument Square, Charlestown?—A. I do.

Q. And that is within the congressional district?—A. Yes, sir.

Q. You were born and lived there all your life?—A. Yes, sir.

Q. And you have been a Member of the Sixty-fourth and Sixty-fifth Congresses?—A. I have.

Q. You were a candidate for reelection on the Democratic nomination last fall?—A. Yes.

Q. And were you, after you filed your papers, were you offered any inducement by Mr. Lomasney or Mr. Fitzgerald, or both of them, to retire?

Mr. FEENEY. Mr. Tague, pardon me, I object.

Mr. MANCOVITZ. It can be stricken out.

Mr. O'CONNELL. Let's understand this: Mr. Berman is taking this testimony. Mr. Mancovitz has the right to sit with him. Mr. Mancovitz has no right to make any rulings at this time. Mr. Mancovitz will make the rulings when he puts in his testimony.

Mr. FEENEY. I want to call the attention of the board, and I want to call the attention particularly of the witness, the present Congressman, to the fact that there is no allegation of any such kind set forth in the bill that has been read here. Now, I understand full well that in a hearing of this kind counsel may indulge in the spectacular, and witness may do so also, and that neither one of the notaries or justices of the peace can well control the situation, but I want to call the attention of the Congressman himself to the fact that there is no such allegation set forth in this bill, and that therefore he, the Congressman, ought not to attempt to inject into this case something, whether it be true or not, which has not been set forth specifically in that bill of complaint, and if they undertake now, with all the latitude which they may have before you, because, to be perfectly frank with you, you are only a pair of dummies, if they undertake to inject, to throw in that sort of matter, I shall feel at liberty to call attention to it later on, but perhaps the matter can be settled now. I am doing this at the outset of this hearing that we may have an orderly hearing, and in order that counsel and witnesses may confine themselves to the issues which are clearly set forth in that bill and in my answer.

Mr. O'CONNELL. In answer to Mr. Feeney, I will simply say there is an allegation that money was used at that affair last fall, and we intend to bring it out.

Mr. FEENEY. Where is it?

Mr. O'CONNELL. I am going to ask Mr. Tague now what was said.

Mr. FEENEY. Pardon me. For the purpose of the record, will you call our attention to any allegation in your bill which justifies the question you have asked Congressman Tague?

Mr. O'CONNELL. It's there; you can find it.

Mr. FEENEY. No; it isn't there, and you can't find it. Put it in the record so we can get the basis for your question.

Q. What was said by Mr. Fitzgerald?

Mr. FEENEY. That I object to for the reason which I have already presented.

Q. Go ahead.

Mr. BERMAN. We note your objection. Mr. Tague may answer.

A. Mr. Fitzgerald—

Mr. FEENEY. Do I understand, after calling the attention of the Congressman to the fact there is no such allegation in this bill, he desires to answer the question as put?

Mr. O'CONNELL. That is nothing of the kind. Your attention is called to the fact that it is in the pleadings.

Q. Go ahead with the answer.

Mr. FEENEY. It isn't in the pleadings, and if the Congressman will call my attention to any such allegation I will withdraw my objection, and I ask the stenographers to note that I asked counsel to read it.

Mr. O'CONNELL. Mr. Goodwin offered to show it to you and point it out to you.

Mr. FEENEY. What Mr. Goodwin offered to point out to me was subdivision (d) under the fifth allegation. If Congressman Tague says he is referring to that, I have no further objection.

Q. Will you please answer the question now, Congressman?—A. Yes; and within my rights, too. Mr. Fitzgerald sent for me and I went to meet him at the Quincy House. This was previous to him filing his papers. He told me that Mr. Lomasney requested him to be—

Mr. FEENEY. Pardon me. I call the attention of the notaries, and of the stenographers, and of the Congressman, himself, to the paragraph which his own counsel, a reliable lawyer, Lawyer Goodwin, has pointed out to me, namely, section (d) under division V: “(d) Money was used at said election in defiance of Federal law, voters being promised money for voting for you.” That is the only allegation to which our attention has been called.

Mr. O’CONNELL. There are plenty of allegations all through, in this whole affair, and of improper actions on the part of Mr. Fitzgerald and his leaders, and we are going to introduce them, and going to show the improper practices by Mr. Fitzgerald and by Mr. Lomasney.

Mr. FEENEY. I asked you to point out, and your lawyer, Mr. Goodwin, pointed out the section I have read, and the section in the record.

Mr. O’CONNELL. Too bad you have got excited at this early date. I simply want to make it as short as I can, and want to make it confined to the issues. If we are going into the issues particularly, we shall be perfectly willing to meet the issues as they arise. We intend to show all the improprieties, because we allege them.

Q. You met Mr. Fitzgerald at the Quincy House. Tell us what he said.

Mr. CALLAHAN. What was the date?

Mr. TAGUE. I don’t know. It was previous to filing the papers.

Mr. CALLAHAN. For nomination?

Mr. TAGUE. Yes.

A. I asked Mr. Fitzgerald why he was a candidate for Congress. Mr. Fitzgerald told me that Mr. Lomasney had asked him to be a candidate for Congress, and that he was not seeking the position, that he felt that he was the right man and only man who could represent the tenth congressional district in Congress at the present time. He said that he wasn’t in need of the money that went with the job, but that he wanted to build up the port of Boston and that I would be taken care of, that he had an understanding with Mr. Lomasney that I was to secure a position in city hall, if I was to retire from the contest. This I refused to have anything to do with, and told him so.

Q. Did you ever have any talk with Mr. Lomasney, Mr. Martin Lomasney?

Mr. FEENEY. Pardon me. In order to make the record clear, I ask that the answer be stricken out, as not relevant to the issue here.

Q. Did you have any talk later on with Mr. Martin M. Lomasney?

Mr. FEENEY. I object to whether he has had any conversation with Martin M. Lomasney.

A. I went down to see Mr. Lomasney when I heard I was to have opposition for renomination. I asked Mr. Lomasney about it. He said that there was some opposition to my being renominated, and there was some feeling because of my action in voting on the war, and voting for conscription. I asked him who the opposition came from, and he named several people, he said who had objected, or would object, to my receiving the nomination, but at this time he said nothing about Mr. Fitzgerald—John F. Fitzgerald.

Q. Go on and tell us—— A. I met him a day or two after, and I asked him if the story was true that John F. Fitzgerald was to be a candidate for Congress and he told me he had heard it, but he had heard nothing definite from Fitzgerald, but that he did know that Fitzgerald and his friends had been going throughout the district trying to arouse a sentiment that was—that Fitzgerald should be a candidate for Congress. I told Mr. Lomasney I had talked with Mr. Fitzgerald, not only in Boston, but in Washington, and Mr. Fitzgerald told me he was not a candidate, and wouldn’t be a candidate, but that Lomasney had asked him to be a candidate. Lomasney said to me he thought if Fitzgerald should be a candidate I should withdraw from the fight—he was going to be with Fitzgerald, and that I could be taken care of with a good position, and for me to call down and see Joe Lyons at the surveyor’s office, the appraiser’s office. He also told me——

Q. Who is Joe Lyons?—A. United States appraiser.

Q. What is his other position in Boston, with reference to politics?—A. The recognized representative of the mayor—Mayor Peters.

Mr. CALLAHAN. This is a date previous to the primaries.

Q. Go ahead, Mr. Tague.—A. I refused to call on Joe Lyons.

Q. What were you to call on Mr. Lyons for?—A. In order to have a talk with him about going to see the mayor and securing a position at city hall.

Q. For the reward of getting out of the fight?—A. Yes. For the reward of getting out of the fight. He also told me further that Fitzgerald, being a rich

man, that he did not need the money, that he could go down there and be a big factor, and that he thought Fitzgerald would be ready to surrender two years' salary, and that perhaps after Fitzgerald had served one term that I could go back to Congress. He further said he was afraid if Curley had beaten Gallivan Curley would come back and be a candidate for mayor and that he wanted me in Congress to offset Curley.

Mr. FEENEY. I ask the commission if this is proper in view of the fact the answer has nothing to do with the issues involved here—that the answer be stricken from the record?

Notary BERMAN. We will note your objection, Mr. Feeney.

Q. I wish you would describe the tenth congressional district, so we may be able to understand in the district later on the different locations—what is the tenth congressional district composed of?—A. The tenth congressional district is composed of wards 1 and 2, known as East Boston; wards 3 and 4, known as Charlestown; ward 5, which takes in the north and west end and part of the south end; and ward 6, which takes in the south end of Boston.

Q. Wards 5 and 6 are in the congested parts of Boston?—A. Yes, sir.

Q. What is known as the downtown section?—A. Section of the city.

Q. Ward 5 is controlled by whom?—A. Ward 5 is controlled by Martin M. Lomasney.

Q. To what extent is it controlled by him?—A. Why, he was the recognized ruler, the czar of the ward. He does pretty near as he pleases—delivers it any way he wants to.

Q. Either Republican or Democrat?—A. To anyone he pleases.

Q. In this contest who was the Republican nominee for Congress?—A. The Republican nominee was Mr. Fletcher.

Q. Is he a friend of Mr. Lomasney's?—A. Very close personal friend of Mr. Lomasney's.

Q. Is he a member of the Hendricks Club?—A. I don't know whether he is a member, but he is there very often.

Q. What is the Hendricks Club?—A. Lomasney's political organization.

Q. Is it a Democratic organization?—A. Supposed to be.

Q. So a member of a Democratic organization, controlled by Mr. Lomasney, had as the Republican nominee for Congress a member of that club?

Mr. FEENEY. Wait a minute—wait. Of course the Congressman doesn't want you to disquote him, but the Congressman has already said that he didn't know this man, whoever this man may be, to be a member of the Hendricks Club. I think he did say he was a man who did go there, but he didn't know whether he was a member or not. If that is true, if I am right in that, you are not justified in embodying the fact he is a member, or the statement he is a member in any such question.

Q. Hammond Fletcher secured the Republican nomination?—A. Yes, sir.

Q. So Mr. Lomasney, if he could secure the nomination of Mr. Fitzgerald, and having secured the nomination of Mr. Hammond Fletcher, would have both nominations? That's true, is it?—A. Yes.

Mr. FEENEY. Note my objection, please, because there isn't any justification for the suggestion that there is evidence he secured these nominations. I am only getting this in for the purpose later on to call the attention of the committee of Congress to the way you are putting this in, in order to show what you are trying to do.

Mr. O'CONNELL. I offer this, Mr. Commissioner, to show the absolute control both of the Republican and Democratic Party that is exercised by Mr. Lomasney, the boss of this section of the city of Boston.

Q. Now, Mr. Fletcher did, as a matter of fact, secure the Republican nomination?—A. Yes.

Q. Have you given us now in full all the conversation you had with Mr. Lomasney and Mr. Fitzgerald, or did you have another conversation with either of them?—A. I had several conversations, but this is practically the substance of the conversations.

Q. Now, did Mr. Fitzgerald, refreshing your recollection, did Mr. Fitzgerald offer you the two years' salary?

Mr. FEENEY. Wait a minute. Wait a minute. You don't mean to say you think this Congressman needs any leading on that? Didn't he tell you the conversation and didn't he also tell you what Mr. Lomasney said about the matter?

Mr. O'CONNELL. I am not leading him. I am asking, refreshing his recollection, if that wasn't done by Mr. Fitzgerald.

A. Mr. Fitzgerald said he didn't need the job, the money was no object to him, and asked me if I hadn't had conversation with Lomasney on the subject. I told him I had but that it didn't appeal to me.

Q. Now, have you told us all?—A. Why, yes.

Q. You went through the primary?—A. I might say right there, that Mr. Fitzgerald at the Quincy House had told me he was willing to surrender the salary. I am positive of that.

Q. The primaries were held, and as a result of the primary, you, on the night of the primary, what did you do?

Mr. FEENEY. That I object to.

Mr. BERMAN. Your objection is noted, Mr. Feeney, and he may answer.

A. On the night of the primary, as the returns came in, it was apparent that the contest was going to be very close. The returns came in from all the wards with the exception of, I believe, four precincts in ward 5, which were held until the last precincts to come in.

Q. What precincts were they?—A. I think 3, 4, 7, and 8.

Q. Are those the precincts that are located right in and around the election commissioners' office?—A. Yes.

Q. So that the returns from the booths that were nearest to the place to which the returns should be given were the last to come in?—A. They were.

Q. Did you call on the election commissioners that night?—A. Yes. When I found out the way the returns were coming in, I called at the commissioners' office.

Q. What were the newspapers and unofficial reports of the outcome of that primary?

Mr. FEENEY. That I object to.

Mr. BERMAN. Your objection is noted. He may answer.

A. The returns through the newspapers were to the effect that Mr. Fitzgerald won by 91 votes.

Q. What time that evening did you call on the commissioners? By "that evening" I mean the evening of the primary.

Mr. FEENEY. I want to make a general objection of anything he did or said in relation to the primary.

A. I came in town from my home and went in to the election commissioners' office about 9 o'clock, little after 9 o'clock. I met Mr. Burlen as I went in the office.

Q. Who is Mr. Burlen?—A. Mr. Burlen is chairman of the board of election commissioners.

Q. Now, right here, in order that we may understand, and that there may be no confusion of names hereafter, who compose the election commissioners of the city of Boston?—A. Commissioner Burlen, chairman; Mr. Murphy, Finnegan, and Wasserman.

Q. The office of the board of election commissioners is in the city hall, Boston?—A. City hall annex.

Q. And that is practically the middle or center of ward 5?—A. Yes.

Q. This ward is dominated by Mr. Lomasney?—A. Yes.

Q. Now, these election commissioners are political officials appointed by the mayor?—A. They are.

Q. Who did you speak to when you got there?—A. I spoke to the chairman, told him I came there to ask that a safeguard be put over the ballots, that extra police be called in to guard them, the contest was close, and there would be a recount, and I wanted them protected.

Q. What did he say?—A. He said he would summon the board, two of them had gone home, and he turned around to Mr. Murphy who was in the room, and told Mr. Murphy that I was asking for protection of the ballots, and Mr. Murphy immediately left the election commissioners' office. Mr. Burlen asked him to stay, but he refused to do so. He went out of the office and in a very short time, perhaps 10 minutes, Joseph P. Lomasney, brother of Martin Lomasney, came in the room, and asked what I wanted to make this protest for.

Q. What position does Joseph P. Lomasney hold?—A. Schoolhouse commissioner, city of Boston.

Q. Appointed by the mayor?—A. Appointed by the mayor.

Q. Did you learn whether Mr. Murphy had gone to see Mr. Joseph Lomasney immediately after your request?

Mr. FEENEY. Pardon me.

Q. Go ahead.—A. I was told Mr. Murphy had gone outside and talked with Mr. Fitzgerald—

Mr. FEENEY. Note my objection.

Mr. BERMAN. Mr. Feeney's objection is noted and you may answer.

A. Met John F. Fitzgerald and Mr. Lomasney on Court Street.

Q. Where is Court Street?—A. The street where the city hall annex is located.

Q. Did Mr. Murphy come back?—A. Mr. Murphy didn't come back at that time, but Mr. Burlen telephoned to Mr. Wasserman and also to Mr. Finnegan's home and sent an automobile out to get them. In about an hour they came back to the office, and then about 15 or 20 minutes after Mr. Murphy came into the office.

Q. Inasmuch as there is to be some testimony about Mr. Murphy, describe what Mr. Murphy had been doing in the contest between you and Mr. Fitzgerald prior to the primary on primary day.

Mr. FEENEY. I object.

Mr. BERMAN. Your objection is noted. He may answer.

A. Mr. Murphy told me personally, after we had gathered in the chairman's office, that on the night before the primary Mr. Murphy had gone in the automobile to attend election rallies with Mr. Fitzgerald.

Q. This was the election commissioner to decide your case?—A. Yes, sir.

Q. When the commissioners assembled, what was done?—A. They went into executive session. After a very short while they came out and notified me they would not grant my request.

Q. And nothing was done to safeguard the ballots further as the result of your petition?—A. Not so far as I know.

Q. In accordance with the law, did you file a petition for a recount?—A. I filed a petition for a recount on the following Friday, and I made petition for recount—

Mr. FEENEY. Pardon me; Mr. Tague, I think, answered the question, and anything in the petition will speak for itself later.

Q. Never mind Mr. Feeney's suggestion; go ahead and tell it in your way.—A. When I filed my petition for recount I had on the petition—

Mr. FEENEY. Note my objection. The petition will speak for itself.

Mr. BERMAN. Your objection is noted. He may answer.

Mr. O'CONNELL. The petition will go in all right.

A. When I filed my petition I had written in on the petition for recount the request that I be permitted to examine all used and unused ballots, all records, voting machines, and any other matter pertaining to the nomination. I called this to the attention of Mr. Burlen at the time, and he said there was no objection to filing the petition that way, but the board would take the matter up afterwards, although he had no objection to it.

Q. This was filed on the 25th of September. When did the election board start making a recount?—A. The recount was called for 10 o'clock on Monday.

Q. The following Monday?—A. Started in about 11.

Q. The following Monday?—A. The following Monday.

Q. Prior to the time the recount started did your counsel ask any particular request of the board as to the manner in which the recount should be protected and safeguarded in your presence?—A. Before the recount opened you, as my counsel, requested Mr. Burlen and the board that the ballots be counted at one table and each ward be taken singly in order that we might see each ballot as it was counted. The board again went into another executive session and decided they would not allow it and decided the ballots would be counted by wards and six wards be counted at the same time.

Q. As the result of that decision to do that you were obliged to hurriedly call on anyone you could to assist you in the recount?—A. Yes; that morning there were very few of my friends there, and I had to pick up men who were around and men who were not familiar with the subject of recounts. Some had never seen one, I guess.

Q. So the recount proceeded with your not having the assistance of men who knew about that kind of thing, and you didn't have the assistance of your counsel?—A. Right.

Q. Describe how the commissioners acted during that recount.—A. Why, about every request we made from the commission was met with a sneer. They acted in about every occasion against us. They wouldn't allow our claims on anything, and we protested at the beginning of the hearing at the manner in which the hearing was being conducted.

Q. What was done about delaying it?—A. The commission wanted the recount to go ahead and notified the counters at the tables that the ballots were

to be counted in blocks of 50 and all challenges were to be set aside and sent into the room to the commissioners before any further counting would take place. It was then discovered that a great many challenged ballots were brought into the room, and all the counters were idle outside and nothing was being done to hurry the count along. The board then decided that they can count one block and lay 50 out and proceed and then take a second block, and that failed to hurry the counting along any, and then you made the request that the ballots be counted by precincts, and that the blocks of 50 be laid aside and decided——

Mr. FEENEY. Has the Congressman finished his answer?

A. And then they decided they would count the precincts and the challenged votes were to be put back in their respective places after the board had decided on it.

Q. Before passing on, I am going to ask you to go back a moment to the conference between the election commissioners and myself in the morning in reference to the unused ballots, what was said and done in reference to the petition as it referred to the unused ballots?—A. When the question of unused ballots was brought up, you brought to the attention of the board the fact that you had petitioned to see everything and asked for permission to see our original recount papers. They were shown, and proved that our request was on the papers, but the board said they would not permit any of the unused ballots to be seen.

Q. I am asking what took place in the morning, what was said by the board in the morning before we proceeded with the recount? Did they say they would take the matter under consideration, or what did they say?—A. The board said while we petitioned in our recount to see these ballots, Mr. Burlen said he would put the matter to the board and the board then went into session and decided against allowing us to see them at that time.

Mr. BERMAN. We will take a five minutes' recess.

AFTER RECESS.

(Mr. Tague resumes the stand. Stenographer reads the question.)

Q. Picking up the testimony where we stopped at the conference in the morning, what did the commission say with reference to the unused ballots?

Mr. FEENEY. Pardon me, Mr. Chairman, this morning, at the opening of this hearing, I called the board's attention to the fact that counsel, for some reason best known to himself, was not attempting to confine himself to the issue which is being tried here. He was allowing his feelings against the Congressman-elect to carry him away, and because he is not confining himself to the issue which is presented here and which will later be properly presented at Washington, I object to the question which he has just put, and I call your attention to the following statute, which is section 177, of the United States compiled statutes of 1916, as follows:

"All witnesses who attend in obedience to a subpoena, or who attend voluntarily at the time and place appointed, of whose examination notice has been given, as provided by this chapter, shall then and there be examined on oath by the officer who issued the subpoena, or, in case of his absence, by any other officer who is authorized to issue such subpoena, or by the officer before whom the depositions are to be taken by written consent. * * *."

Therefore, respectfully submit to you this examination of this witness is not being carried on in accordance with the provision of law, and the examination should be conducted either by the person who issued the subpoena for it, or if he came here voluntarily, the examination should be conducted by you, sir.

Q. Proceed with your answer.

Mr. BERMAN. I believe the witness has a right to be represented by counsel. I believe it is the right of Mr. O'Connell as counsel that he has the right to go ahead.

Mr. FEENEY. You decline to conduct this examination yourself?

Mr. BERMAN. In view of the fact that Mr. Tague has Mr. O'Connell for counsel, I have decided to find him the proper man.

Mr. FEENEY. The stenographers will probably note that I called your attention on that and to the fact that either he or the person issuing the subpoena should conduct the examination of witnesses, and Mr. O'Connell is not such a person as designated by the statute it should be to continue the examination.

Mr. O'CONNELL. It would be a little bit remarkable if the defense were not to have an attorney to represent him in the presentation of the case, it has

been the practice, and in view of your honor's ruling, and always what I understood in the presentation of this kind of case and the statute covers thing thing, and the statute following, which has been cited by Mr. Feeney.

Q. Proceed, now, with the question. What about that morning when we asked them to give us a decision whether we could see the unused ballots?—A. Mr. Burlen, speaking for the board, told us he would not permit us to see the unused ballots and he would make a ruling on it later.

Q. Now, as the hearing proceeded, what was the conduct of the various commissioners toward you throughout that day, Monday, the first day of the hearing?—A. As the hearing proceeded, it was very apparent to me, at least, and to others there that the board was decidedly against me and making rulings against me on almost every question we asked.

Mr. FEENEY. I ask that be stricken out as not being the correct or proper answer to the question.

Mr. BERMAN. We will admit it and note Mr. Feeney's objection.

Q. Did they go into executive session?—A. About any time the question came up on any challenge or any question asked by us the board went into executive session.

Q. How much time did they use up in executive session?—A. They went into executive session 5 to 15 minutes to half an hour on the simplest questions they could answer yes or no.

Q. Had the election commissioners before this ever gone into executive session?—A. I never heard of it. All the hearings I ever attended were settled right in the board.

Q. In the presence of the parties who raised the question?—A. Always.

Q. Did you protest this innovation and that you were entitled to be present at all its deliberations and all the proceedings that were going on?—A. Not only protested, but I think at one time tried to get into the room. I think you or me were told the hearings were private. We protested and said any question under consideration should be heard before everyone interested.

Mr. O'CONNELL. At this time I will state we intend to have introduced all the ballots of the primary, particularly those that were decided by the election commissioners. They will be taken up with the subsequent witnesses.

Mr. FEENEY. Why worry about these now?

Mr. O'CONNELL. I shouldn't add to your worries, I know. You are very much worried, and justly so. I didn't do it for the purpose of worrying you a particle. I will withdraw it if it hurts your feelings and adds to your discomfort, and proceed along the lines—

Q. Now, Mr. Congressman, will you be good enough to tell us what Commissioner Murphy would do immediately the election commission went into executive session—what was his practice of doing that day?—A. When the board went into executive session almost every occasion we followed them, I followed them myself several times; Mr. Murphy would leave the room by the side door, and in the hallway would meet the representatives of Mr. Fitzgerald, and at one time Mr. Field and Senator John I. Fitzgerald, and another time Mr. Lomasney and Mr. Field, another time Henry Fitzgerald and Senator Fitzgerald, Mr. Murphy would go in consultation with them and come back to the board and almost every occasion they would decide against us. His attitude was always antagonistic to me.

Q. These men were close adherents to Mr. Martin Lomasney and John F. Fitzgerald?—A. Yes, sir.

Q. And Mr. John I. Fitzgerald is the one that was in the room and is hanging outside the door now?—A. Yes, sir.

Q. Now, describe how the commission acted during the day in reference to the manner in which the recount was being handled. I call your attention particularly to the various orders that were given that were conflicting with each other.—A. As the recount proceeded, as I said a few moments ago, they gave notice during the recount 50 votes would be counted at a time and challenges set aside, and none of those counted until decision was made on that block of 50. Then we found the hearing was dragging and the counters weren't doing anything and we immediately entered a protest that there was nothing doing on the recount and the board then decided they count two blocks. Then when they found out that was delaying the count, they decided to count in precincts, no ballots to be handled in the second precinct until all decisions had been rendered on the first precinct. When these ballots were brought in the room and we questioned them as fast as they reported, my requests were met in an unfair and sneering and insolent manner by the chairman of the board

and especially by Mr. Murphy and Mr. Finnegan, and on one occasion, Mr. Finnegan deciding on the votes, where the question came up as to him having made a mistake, on account of making a decision, and he was asked if he made a mistake, and he said, "Yes; I'm wrong; and I'm glad I'm wrong; and I intend to stay wrong."

Q. During the day were any irregularities found in wards 5 and 6?—A. In Ward 5 the first thing discovered——

Mr. FEENEY. The commissioner note my objection to this question and to the answer.

Notary BERMAN. Mr. Feeney's objection is noted. Mr. Tague may answer.

A. In ward 5 we discovered there were a great many irregularities. It was discovered, too, that there were a great many ballots that had been double-marked. For instance, a ballot had been marked for me and for Fitzgerald. It was also discovered in this ward that there were a great many ballots cast there with stickers bearing the names of the State committee. These stickers were marked in different colored pencil from the regular voting pencil in the voting booth, or the pencil used on the other part of the ballot.

Q. You mean State ticket? —A. State ticket; yes.

Q. Right here I want to ask you, in the appointment of the election officers in ward 5 who has the appointment of the election officers, both for the Republican and the Democratic side, and those men that are behind the rail?—A. In the Democratic side Mr. Lomasney has the naming of the tickets, and it is a well-known fact to all who know anything about it that he names the Republican officers as well.

Q. All precinct officers are Lomasney men?—A. All of them.

Q. Now, then——A. We found one or two irregularities that day. We found ballots in one precinct marked that belonged in another precinct. We called the attention of the board to this fact, but the board at that time refused to give us any answer. Again the matter was brought to the attention of the board when it became very plain this was going on, and the board then made answer that Mr. Finnegan had gone into the different precincts and had transferred the ballots in blocks of 50 from one precinct to another.

Q. Go ahead.—A. I think it was then we also discovered that during that day or found out during the day that Mr. Burlen had caused a thousand ballots to be printed, but when asked about it he refused positively to give any answer on it, and the board refused to pay any attention to our request as to what became of those ballots, and even to admit they had these ballots printed.

Q. Right here, the State law of Massachusetts is, with reference to ballots used at primary elections such as conducted in Boston, that all ballots must be furnished by the State printer. That's the law, is it not?—A. Yes, sir.

Mr. CALLAHAN. Wait a minute. Isn't it better to produce the law?

Mr. O'CONNELL. Yes; we will produce the law.

Q. You say they refused to give any information or explanation as to how these ballots were secured?—A. Yes.

Q. It was in precinct 5, ward 5, where the missing block No. 1 was found to be missing, and tell us what was found and what was done in reference to that block of 50 votes.

Mr. CALLAHAN. What was that, please?

Mr. O'CONNELL. That was precinct 5, ward 5.

A. When the counters went to count precinct 5, ward 5, as soon as they opened the box, they discovered block No. 1 containing 50 votes missing.

Q. Are these Democratic votes?—A. Democratic votes: yes, sir. The matter was brought to the attention of the board, who ordered the counters at that time to discontinue counting the votes and bring the box into the board room. This was done, and search was made for block No. 1 by Mr. Burlen. He was unable to find it in the box and then he opened the Republican pouch to see if the block of 50 was there, and he was unable to find it, and the box of precinct 5 was set aside for the time being and they were told to go and count the other precincts.

Q. Did they also look in the Socialist box to see if it was there?—A. They looked in the Socialist pouch. Mr. Burlen looked in every pouch there.

Q. This was done before the commission?—A. Before the commission and the representatives.

Q. And thorough search was made in every possible place in which the block of missing 50 might be found, and it was never discovered?—A. No; and never discovered up to now.

Q. And special search was made at the time before the ballot law commission—A. Yes.

Q. The final returns showed you were defeated by 50 votes?—A. Forty-one votes.

Q. Now, I call your attention to what took place at the recounts in reference to precinct 7, ward 5, on the opening of the block of 50 votes there, what was discovered?—A. The tally sheet gave my opponent the entire 50 votes. When the recount was made, it was found that he received 15, that I had 14 votes, and that 20 votes were blank.

Q. Was anything specially noticeable in that precinct?—A. In this precinct it was one where every vote had a sticker containing the State nominations upon it, and the ballots were marked, the stickers were marked in green, blue, and black and red pencil, while the ballot itself was marked in indelible pencil. This was brought to the attention of the board and they refused to decide on it.

Q. The law of Massachusetts prohibits any person other than the one to whom the ballot has been handed, to touch the ballot in any way, does it not?

Mr. CALLAHAN. Wait; wait.

A. Yes.

Mr. CALLAHAN. Of course, I haven't any doubt but the Congressman has an extensive knowledge of elections, but I think it ought to be put in properly, Mr. O'Connell.

A. The attention of the board was called to the fact at that time.

Mr. CALLAHAN. Please note our objection and answer.

Mr. BERMAN. Note Mr. Callahan's objection.

A. We challenged the counting of those votes on the ground the ballots were marked by some other person other than that had been marked on the rest of the ticket, the way the sticker was placed on the ballot, and the way it was marked clearly showed it would have to be marked by some other man than marked the ballot, when we compared the markings of the two.

Q. What action did the board take when that was called to their attention?—

A. The board refused, they rendered a decision against us on the challenge and said they would not take any notice of the stickers.

Q. Or to the different marks?—A. Or to the different marks, even though we challenged they had been marked otherwise.

Q. Continuing the recount that afternoon and into the evening, was any of it finished that night?—A. After the votes of the precinct had been counted, the question then came up as to the counting of precinct 5, ward 5. The board went into executive session again and when in session they called in the representatives of my opponent as well as myself, and in that session the question arose as to the missing 50 votes, the block of 50 votes. I brought up the fact that on a previous recount some years ago, that some of the used ballots had been found among unused ballots, to which Mr. Burlen agreed that had happened. He said there to the men present that he was willing to look into the unused ballots for the missing block and did agree to but the representative of Mr. Fitzgerald, who was Mr. Miller, with Mr. Murphy disagreed with the ruling of the board and he thought that matter ought to be taken up later and decided another time. The board said that in regard to the ballots in ward 5, precinct 5, they would make a decision in the morning whether or not we could see the unused ballots. The question then came up to have us look at the unused ballots and the records and when the matter was brought to the attention of the board, Mr. Burlen denied positively he knew anything about the request having been made, notwithstanding the fact it was on the petition and brought to his attention that forenoon by you.

Q. About what time did the recount finish that night?—A. After midnight; I think about 12.30. But during the afternoon, I might say, Mr. Finnegan, as a member of the board, objected to sitting in the evening, and the board decided to cease counting at 6 o'clock. Then they countermanded that order and agreed to cease counting at 9 o'clock. That they countermanded and decided to count all votes on that day.

Q. As the result of countermanding the orders, had some of your men departed and gone home?—A. Quite a few.

Q. So the recount had to proceed without any representation at some tables as far as you were concerned?—A. Yes, sir.

Q. Was there a protest on your behalf against this procedure by the board?—

A. Yes; we protested and told the board we had made a decision and told our men they would not be wanted after that hour.

Q. They resumed after 6 o'clock? A. Resumed after 6 o'clock, and continued after 9.

Q. On Tuesday, when we reassembled again at the commissioners' office to continue the recount, what was said or done by the commissioners Tuesday?—A. We were told on the night before to meet at 10 o'clock Tuesday morning, and the board would render a decision then on the question whether or not we could see the unused ballots. After we entered the room the board went into executive session and after being there an hour and a half or two hours, they came out and notified us they were not ready to make their decision at that time and adjourned the meeting until 2 o'clock. At 2 o'clock we came back and as soon as the board convened, you made a note to ask the board, you informed the board that you had noticed many persons other than those attached to the recounts entering the vaults where the ballots were stored; that you had gone down yourself and seen people in the vaults you didn't know. You asked the board what provision was being made for the protection of the ballots. They told you they were taking care of them themselves and would not give you any answer at all. After that they went into executive session and then they said they had no decision to give and would give a decision on Wednesday morning. We convened again Wednesday morning, and after holding us there again an hour or two, they decided they were not ready to give their decision, but would give it to all on the next day.

Q. Did you, as the result of their refusal to tell you what was being done to protect the ballots, did you appeal to the mayor of Boston, the mayor of Boston?—A. When I found out they were delaying the hearing by going into session and not giving any decision and their refusal to protect the ballots which I thought ought to be protected, I went with you and asked the mayor to have the commissioners removed, not only on the ground of unfairness, but by making decisions against us for my opponent without any consideration of the facts, and their actions toward us were anything but that which election commissioners ought to be toward us. The mayor said he would consult the corporation counsel and have him get in touch with the board and send for the board, which I afterward learned he did do.

Q. When we convened the following morning, what happened?—Q. On Wednesday morning we met the board at 10 o'clock. As soon as we entered the board we found Mr. Higgins, assistant corporation counsel, present to represent the corporation counsel. As soon as the board convened, Mr. Hurlen demanded of you that you put in writing the request for the unused ballots which we had so often requested during the hearing. You put in writing your request and then the board adjourned about half past 10 into executive session again, and they remained in executive session until after 12 o'clock, when Mr. Higgins came out of the room, apparently disgusted, by the way he waved his hand when he was asked if he had been discharged.

Mr. CALLAHAN. We object to this evidence as hearsay.

A. Mr. Higgins went over to the other end of the room and refused to talk with anybody in the room on the question. As soon as he came out of the room—all hands, everybody in the room in fact, representing Mr. Fitzgerald as well as ourselves, were objecting to the manner in which we were treated, Mr. Miller asked Mr. Higgins if his decisions were being listened to and Higgins refused to answer. Mr. Miller then arose and said the methods and actions on the part of the board were disgusting, and the board didn't know their own mind two minutes. We waited another half hour to see if they would come out, and the board still remained in session when we left the room.

Q. What did Fitzgerald's counsel do?—A. Mr. Fitzgerald's counsel said he wasn't going to sit there any longer, but I understand he remained a little while and then left the room.

Q. Calling your attention to the last morning, on the last morning which was Thursday, as I remember it, concerning some secret conference between the election commission officials and election officers of ward 5, precinct 5, where the irregularities were discovered, will you tell us what the board said and did in reference to it.—A. The newspapers of that morning published a statement that the board had sent for the precinct officers in ward 5, precinct 5, where the irregularities were shown. In the morning we asked the board if that was so, and they said they had sent for some of their officers. We asked the names of the men and they were rather reluctant about doing it until we compelled them to answer, as it was within our rights to know. We then asked who was there and they said only the precinct officers. Then when we pushed them for further answer, they admitted Mr. Finberg and Mr. John I. Fitzgerald were present, and then the board withdrew to the commission room.

Q. Who is Mr. Finberg?—A. From ward 5.

Q. Lomasney man?—A. Yes, sir.

Q. Who is John I. Fitzgerald?—A. Senator from that district and member of the Hendricks Club.

Q. Does he look after Mr. Fitzgerald's interests?—A. Yes, sir. So does Mr. Finberg.

Q. While these conferences were being held no notice was received by you?—A. No, sir; and when asked why we had not received notice they said we were not entitled to notice; they were conducting the hearing themselves.

Q. Now, after this was done, what time of day did we leave the election commissioners' office, do you recall?—A. About 12.30: between 12.30 and 1.

Q. In other words, we had been there on the fifth day?—A. Yes, sir.

Q. From 9 in the morning until 12.30, and nothing had been done?—A. Nothing.

Q. Coming back to the time when we asked to see the records and the voting list, tell us what the commission did in reference to our request for a view of the check lists of those who had voted?—A. While the question of, I think, precinct 5 was being decided, the check lists were brought out to see how they checked up with the records; permission to see the check lists, they refused us. Also positively refused to let us see the police lists, to see whether or not the names were voted on; this was absolutely refused.

Q. Explain—so the record may be clear. The police lists represent a check list made by the police officers in attendance at the booths?—A. Yes, sir.

Q. And were checked off when the ballot goes in?—A. Yes, sir.

Q. And the election commissioners also checked off?—A. Yes, sir.

Q. The election commissioners refused to let you see at that time either of those check lists as to how they were marked, is that right?—A. That's right, and they went further and said they would refuse to let us see any of the lists.

Q. Then when did we protest, did they cover up the markings so we could not see how or find out how they had been checked?—A. They put a paper along the edges so we couldn't see only just the bare names.

Q. Now, these ballot boxes, how are the ballot boxes kept, Mr. Tague?—A. The ballot boxes are kept down in a big spare room, voting machines or boxes?

Q. Both?—A. The voting machines are kept down in a room underneath the office of the election commissioners, and it was admitted on question of Mr. Burlen—

Mr. CALLAHAN. I want to know if he hasn't answered that question?

Q. What did Mr. Burlen say with reference to how those boxes were kept?—

A. The question was asked whether or not these ballot boxes were protected, and they said they were, and then upon being questioned further Mr. Burlen admitted the room where the ballot boxes and machines were kept was wide open, and that the men went in there at noon and ate their lunch and smoked down there, and then the question came up of the ballot boxes being protected, and Mr. Burlen said they were amply protected, and that no man could go in the vault without at least two commissioners being present; that the Democrats had one key and the Republicans had another. And then we asked whether or not if this vault was open, how it was protected, and he said his men were the only men entering the room, and we could get little satisfaction from him.

Q. As a matter of fact, did you notice whether there were men entering the room, and whether they went in and out or not?—A. The counters from another contest were going in and out of the vaults all day long.

Q. Have you any record of how many men went into the vault, or what was taken in or brought out?—A. Not at all.

Q. So the vaults might only be opened by two men, but after they were open they were accessible for whoever wanted to go in or out of that office?—A. Yes, sir.

Q. Describe where that vault is.—A. That vault is underneath the commissioners' office at the foot of the stairway which leads right outside the election commissioners' door.

Q. Very accessible to the street?—A. Anybody who goes in that door can go down into that vault. There is also another entrance to it from the elevator down in the basement.

Q. So you can get to either of these vaults where the ballot boxes are kept without going into the office of the election commissioners at all?—A. Yes.

Q. Now, then, as the result of what the election commissioners of the city of Boston did at that recount, the majority of Mr. Fitzgerald over you was reduced from 91 to 41; that's right, is it?—A. Yes.

Q. What was found out with reference to the records, as to how they were kept?—A. Which records do you mean, Mr. O'Connell?

Q. The records of the precinct officers.—A. Why, during the day, as the recount proceeded, we found out there were practically no records kept at all in any of the precincts. For instance, the ballot box in precinct 7, I believe, registered 422 votes, while the check list registered 317. In another precinct the ballot box registered a difference of—I haven't got the exact figures—15 or 20 votes; and in another precinct there were no tally sheets of the count in the box at all; in one precinct there would be two tally sheets where there should be five. In another booth there were three where there should have been five, and the records as far as we could see up to this time were irregular and the marking on the ballots was such that anyone who knew much about it would know the ballots were tampered with by some one other than the voter.

Q. Do you recall the ballots which showed they had been in water or had been out in the rain?—A. I think it was in precinct—I don't recollect just now the precinct—but in one precinct we got quite a few ballots which showed very clearly the ballots had been wet, and the marking on the ballots was made in such a way as it only could be made on the ballot that it was made. It was blurred. They looked as if they had been in somebody's pocket.

Q. Calling your attention to the kind of a day the primary was, whether or not it rained part of the day?—A. As I remember the primary day it was a very clear day. No; let's see—I don't remember what the primary day was just now.

Q. Refreshing your collection as to the condition on that day, that was the day that Postmaster Murray was buried—does that recall to you the condition of that day, or the weather of that day?—A. Yes; it does.

Q. What was it?—A. Stormy day; and I remember very distinctly going to Mr. Murray's funeral service and all the automobiles were closed in on account of the rain.

Q. Now, you spoke about Assistant Corporation Counsel Higgins, having been sent by the corporation counsel to advise with the commission, on the order of Mayor Peters, what did Mr. Burlen say as to whether or not the commission would accept the advice of Mr. Higgins as to how the commission would conduct the hearing?—A. Mr. Burlen said he would conduct his own hearing as he saw fit and they believed they were competent to conduct the hearing as they had others, and didn't need the assistance of the corporation counsel.

Q. And refused to take it?—A. Refused to take his advice. The newspapers afterwards commented on the same thing, that the mayor was disappointed that they refused to abide by the decision of the corporation counsel.

Q. Now, did you discover that the names of soldiers and sailors had been voted upon at that primary?—A. Yes; upon investigation, we found a list of 22 soldiers and sailors whose names had been voted on and who were in the service of the Government.

Q. Where?—A. Most of them were out of the country.

Q. Where were the others?—A. Some were—one was at Alabama, another at Camp Dix, another in Ohio, another at the Brooklyn Navy Yard, and some in the harbor, one or two here in the harbor, and the others were in France and overseas and on the ships of the Navy.

Q. Now, was the attention of the election board called to the fact that many of the ballots were not canceled in ward 5?—A. Yes; in precinct 8, I think of ward 5. The attention of the board was called to the fact the ballots were not canceled, and when they were opened up it was found that none of the ballots cast in that precinct had been canceled at all. This was brought to the attention of the board, and the law on cancellation of ballots was called to their attention, but they ruled the canceling machine might have been out of order, and they used the machines during the entire day.

Q. What is the law about counting votes that are not canceled?

Mr. CALLAHAN. I object.

Mr. BERMAN. Answer admitted, objection noted.

Mr. CALLAHAN. I should think the law ought to be put in properly.

Mr. O'CONNELL. We will put it in properly.

A. The law requires that all ballots shall be put in the boxes supplied by the election commission, and no ballot will be counted unless it has been canceled by the machine on the ballot box, except where the ballots are used in emergency boxes.

Mr. CALLAHAN. I think you ought to cite the reference to the law.

Mr. O'CONNELL. That will be done. We won't do that now because we want to hurry along and get done with it.

Q. As the result of information brought to you about what took place in various parts of the district during primary day did you discover irregularities in the form of men voting on other men's names, dead men's names and soldiers?—

A. Yes; we started to investigate, to see—I received information many illegal votes had been cast in wards 5 and 6 especially on that day in ward 6. We looked up the voting list and found several hundred men's names voted upon and when we investigated many of their landlords in the houses never knew these men, and the mail carriers were unable to find them. We sent triplicate letters to them but they were unable to be found by the mail carriers, and the men sent out by the sergeant at arms at the ballot law commission couldn't find them. We charged these names had been voted upon by repeaters.

Mr. MANCOVITZ. I presume all this testimony is hearsay.

A. The repeaters had been working very faithfully in ward 6 on that day. We presented this list to the ballot-law commission afterwards.

Mr. O'CONNELL. I would suggest that we adjourn here now for an hour.

Mr. CALLAHAN. Make it 2 o'clock.

Mr. O'CONNELL. All right, 2 o'clock. I would like to arrange to have this hearing go along as late as possible to-night, because the Congressman wants to get back to Washington, and we would like to be able to get through with him to-day, if we possibly can.

Mr. CALLAHAN. I don't see how you can. I will say at this time to this testimony offered by the Congressman, in answer to your line of questions, that this all goes in with my objection, because this is clearly hearsay evidence.

Mr. BERMAN. Make note of that objection of the evidence going in.

We will suspend until 2 o'clock.

(Noon recess.)

2.10 P. M.

By Mr. O'CONNELL:

Q. Now, as the result, Mr. Tague, of the information you received, did you go to the adjutant general's office to see whether it was possible to get the names of the soldiers and sailors who were drafted from Massachusetts and then serving in the Army and Navy?—A. Yes; I went to the adjutant general's office with two girls to make a complete examination of the list of soldiers and sailors, and found they were in such an incomplete state I couldn't get all, but I succeeded in getting the ones that were presented to the commission.

Q. How many were presented to the commission?—A. Twenty-two.

Q. Did you bring in evidence from the adjutant general's office about the absence of these men from the city on election day?—A. Maj. Dalton, the adjutant general's officer, appeared and testified that 13 were in the service of the Government outside the State.

Q. Did the State treasurer, Mr. Burrell, testify as to the absence of any others?—A. Mr. Burrell testified and produced receipts for soldiers overseas where the Government had paid them \$10 for bonus money for service, overseas service.

Q. Did it include the month of September?—A. Yes, sir.

Q. There was testimony, was there not, about voting on names in ward six by men who were other than those on the list?—A. Yes; we submitted a great many names to the commission, of names that had been voted on in ward 6. These names had been investigated by us, and we never found such men resided in the places.

Q. Now, describe at length any detail and the manner in which the ballot-law commission treated your petition concerning the primary?—A. We petitioned the ballot law commission for a hearing, and were called in on the next morning to a hearing which they had ordered and were ordered to proceed at once with our case. This we proceeded to do. The first witness we put on was Mr. Isaac Gordon, I believe, and the commission after a great deal of controversy decided they would hear our petition.

Q. That was on October 8, was it not?—A. October 8.

Q. Now, then, from October 8 to October 25 the hearing proceeded. Describe how the hearing was held and the manner in which the ballot law commissioners conducted themselves toward you and your attorneys.—A. The hearing opened in the ballot law offices at first and then adjourned to an office on the fourth floor of the statehouse. Mr. Homer Albers appeared for Mr. Fitzgerald, together with Mr. Brogna. The hearing began with the commissioners refusing to receive some of our requests for examination of the voting lists and

the illegal registration. As soon as the hearing opened and after Mr. Albers had apparently been recognized as the representative of Mr. Fitzgerald, it became very apparent that Mr. Lomasney, as he entered, was to be the chief representative of Fitzgerald, and he appeared with Mr. Mancovitz, and Mr. Brogna also John I. Fitzgerald, who sat behind Mr. Albers during the entire hearing.

Q. Mr. Mancovitz, as referring to the attorney for Mr. Fitzgerald, is now one of the presiding judges at this trial, this hearing?—A. Yes, sir.

Q. Mr. Mancovitz examined some of the witnesses?—A. Yes, sir.

Q. And took a very prominent part in the hearing?—A. Very.

Q. Describe Mr. Lomasney's attitude, as it affected the ballot law commission. Tell us in detail how he acted toward them.—A. Mr. Lomasney, after he came into the room, began to assume almost complete control of the Fitzgerald case, and was informing Mr. Albers on every question that arose. It was very apparent to everyone that the commission was very much upset by Lomasney, and they were fearful they would do something that would offend him. His attitude toward the witnesses assumed the same proportions, that he intended to frighten the witnesses, rather than to allow them to testify as they intended to.

Q. Did the commission appear to be intimidated?

Mr. CALLAHAN. Right there we ought to be permitted to state our objection. We object to this evidence because the witness has no right to characterize. We move it be stricken out.

Mr. BERMAN. Your objection is noted, Mr. Callahan. You may proceed.

(Answer read by stenographer.)

Mr. CALLAHAN. I also want, at this time, to note at this time, that after raising an objection, the counsel goes to witness and has a talk with him.

Mr. O'CONNELL. I simply want to say this, the counsel didn't have any talk with Mr. Tague, he simply wanted to comment on whether or not he wanted to sit down or not.

Mr. CALLAHAN. I suggest any comments be made in a loud enough voice for counsel to hear them.

Mr. O'CONNELL. I didn't want to interrupt you. You were talking at the time to get it into the record and I thought I would be polite with you. I assure you we will have no misunderstanding, particularly in the effort to be courteous.

Q. Describe now, Mr. Tague, just what Mr. Lomasney did to the commission, how he acted?—A. Mr. Lomasney sat immediately behind, or behind Mr. Albers, and as the different questions arose Mr. Lomasney would arise and whisper in the ear of Mr. Albers, and at the same time pointing his finger to the commission and at the different witnesses on the stand.

Q. How near the commission did he sit through all this hearing?—A. Three or four feet.

Q. He sat between the commission, as a matter of fact and counsel and witnesses, did he not?—A. Yes, he did.

Q. So, he had a chance to listen to all that was said among themselves when they were deciding any question and to see anything they did?—A. He did.

Q. And he was the nearest thing to them that there was in the room?—A. Yes.

Q. And only a few feet away, and sometimes as near as his head could get to them?

Mr. CALLAHAN. I object to it. The witness has testified.

Mr. BERMAN. Your objection is noted, Mr. Callahan. You may answer.

Q. Whether or not that was so?—A. Mr. Lomasney was as close as the table would allow him to get between him and the commissioners all the time.

Q. What was the attitude of the commission toward Mr. Goodwin when I was absent from the court room?

Mr. CALLAHAN. I object. I want to state our objection, that the witness should be confined to what was said and what was done there.

Mr. O'CONNELL. I am hoping he will answer that way.

Mr. CALLAHAN. I object to your asking that way. I think, although the presiding officers can't decide that absolutely, I think a suggestion from them to counsel might lead to it.

Q. Whether or not Mr. Goodwin protested and they refused to allow the ballots to be inspected?

Mr. CALLAHAN. I object to it.

Mr. BERMAN. We note your objection, Mr. Callahan. You may answer.

Q. And whether or not I appeared the next day, and they reversed their decision?—A. On the morning of your absence from the court Mr. Goodwin asked to see the used and unused ballots from the commission; some of the commission said they wouldn't allow it. Mr. Goodwin wanted to ask the reason, and Mr. Cunningham, the chairman, brought down his gavel and said there wasn't any reason why they should, and when Mr. Goodwin protested, he called the sergeant at arms to compel Mr. Goodwin to maintain order. Then the controversy arose as to going to the election commissioners' office to look at the ballots, and at that the morning when you appeared they not only reversed their decision, as stated to Mr. Goodwin, but allowed the opening of some of the ballots, as well as some of the records.

Mr. BERMAN. Mr. Goodwin was one of your attorneys?

The WITNESS. He was.

Q. You were represented at that hearing by myself and Mr. Frank A. Goodwin?—A. I was.

Q. Were the names of the witnesses that were to be summoned by the sergeant at arms of the Commonwealth of Massachusetts, submitted to the commission?—A. They were.

Q. Did the commission summons all those names, "yes" or "no"?—A. No; they did not.

Q. Was their attention called to the fact they weren't summoning all the names given to them?—A. It was.

Q. Did they give any excuse as to why they didn't?—A. On one batch of 20 names, they said the board had not received them, but when the matter was brought to their attention Mr. Cunningham said the board had not received them, but Mr. Vinson, a member of the board, did admit that you and Mr. Goodwin had presented him the names of 20 witnesses that were never summoned.

Q. And those witnesses never were summoned?—A. Never were summoned, notwithstanding the fact the requests were given them, and they were never found.

Q. When the hearing adjourned on October 25, was their attention again called to the fact they had not yet summoned those witnesses?—A. It was.

Q. And they didn't send down their decision until October 29?—A. They didn't.

Q. During that time, was any effort made, so far as you know, to summons those witnesses, by the commission?—A. They didn't; no.

Q. Describe the hearing, so far as the Lomasney cohorts were assembled in the committee room, and how they acted?—A. When the hearing opened, Mr. Lomasney, Senator Fitzgerald, and Mr. Mancovitz and Mr. Brogna were assembled behind Mr. Albers. They also had quite a number of men in and about the chamber, and especially in the hallways. We called the attention of the commission to the fact that Mr. Lomasney's assistants were interviewing the witnesses as they came, and were driving them away, but no heed was paid to our notification.

Q. Do you recall a witness named David Stone, sir?—A. I do. David Stone was about 18 years of age, who testified that on election day he went down to precinct 7, and the list was stolen from him, and the police made no effort to get the list. As soon as he left the chamber and went down through the hallway of the courthouse, he was assaulted by three men who said they were members of the Hendricks Club. He came back into the room with his face cut, his mouth and nose bleeding, and glasses broken. We showed him to the board, but the board made no effort to stop that—

Q. What answer did the chairman of the board make in answer to my question that they take action at once to stop such attacks on the part of people attending the hearing?—A. The board said they could do nothing in that regard.

Q. Did this thuggery call forth any comments from Mr. Albers, the attorney representing Mr. Fitzgerald, at that time?—A. It did.

Mr. O'CONNELL. I want to introduce this as Exhibit 6, being copy of the Boston Transcript.

(Copy of article in Boston Transcript, Oct. 17, 1918, marked "Exhibit 6.")

Mr. CALLAHAN. At this time I want to state my objection to the admissibility of this evidence. I don't see how it is admissible by the present witness.

Mr. MANCOVITZ. At no time could it be admissible. It couldn't go in now, anyway, it is not in proper form.

Mr. BERMAN. We will admit the exhibit as it is de bene.

Mr. BERMAN. The Congressman spoke of this assault as taking place in the courthouse. Do you mean courthouse?

The WITNESS. No; the corridor of the statehouse.

Q. Describe what happened to witness who approached the room, and didn't get in; what was done to prevent them from going in, if you know?—A. Out in the corridor, outside the chamber, there were quite a few of the men representing the Limasney forces, as well as in the corridors of the statehouse on that floor.

Q. Describe how they looked and what type of characters they were?—A. They were a lot of young fellows, all had soft caps on, golf caps, of which three of them were three of the fellows that licked up young Stone, but they disappeared after the licking. Also some of them are men that are very prominent with the Hendricks Club, which one witness said tried to get them not to appear.

Q. Which witness was that?—A. Mrs. Steinworzel.

Q. The sergeant at arms brought in the return, made the returns of those whom you asked to have summoned, did he not?—A. Yes, sir.

Mr. O'CONNELL. I offer now the returns made on the summonses issued by the sergeant at arms for the ballot law commission in the case of *Tague v. Fitzgerald*.

Mr. CALLAHAN. I don't think those are official returns.

Mr. O'CONNELL. Yes, they are.

Mr. CALLAHAN. I object to the admissibility of this evidence. It is clearly not official. There is nothing on those to indicate they are the official returns, except a letter pinned to what Mr. O'Connell claims are returns. We also object to the evidence at this time, because it clearly can't be admitted through this witness, and if admitted at all it can be admitted through the testimony of the sergeant at arms.

(Returns marked "Exhibit 7.")

Mr. BERMAN. Those returns are admitted de bene. I assume you are going to present the official returns.

Mr. O'CONNELL. These are the official returns.

Mr. BERMAN. They are marked copies.

Mr. O'CONNELL. These are the official returns from the sergeant at arms, who had the handling of this matter of calling witnesses before that commission, and this is what he has returned to us of having accomplished, or failed to accomplish. This is an official document given to us by an official.

Mr. CALLAHAN. I suppose this is admitted de bene?

Mr. O'CONNELL. No; it is admitted.

Mr. CALLAHAN. Admitted de bene.

Q. Now, we reached October 21, or on the 19th, did the commission announce that being Saturday, on October 19 the commission announced they were going to close the hearing the following Monday, did they not?—A. Yes.

Q. And on Monday morning when we reconvened the commission announced that they would continue the matter then for five days?—A. Yes.

Q. To enable the absent witnesses that the sergeant at arms could not obtain to be brought forward?—A. They did.

Mr. CALLAHAN. Note my objection to that question. I suppose this witness is here for the purpose of testifying, and we believe his testimony ought to be answered "yes" or "no."

Q. Describe what the commission said when we convened on the morning of October 21.

Mr. MANCOVITZ. Didn't the commission deliver to you another copy, a written statement?

Q. You can read that, if it will refresh your memory, and if it does refresh your memory, you can tell the court just what it was.—A. On the morning after we reconvened, the commission was disturbed because no witnesses had, very few witnesses had, answered the summons. They then served us notice that they would use all the power of their office to compel the witnesses to report and answer the summons which had been sent out by the board.

Q. Now, then, the hearing being adjourned, whether or not Mr. Lomasney went and had a private conference in a low voice with the commissioners, did you see or hear that?

Mr. CALLAHAN. I object to that. I believe we ought to conduct these hearings properly.

Mr. O'CONNELL. I will withdraw that question and frame it in another way, in order to save time.

Q. What did Mr. Lomasney do when the commission announced adjournment?—A. When the commission announced adjournment Mr. Lomasney stepped

up to the table where the commission were located and in an undertone voice had conversation with them. I believe you wanted to know what the conversation was, but was unable to get what they were talking about, and they refused to tell you.

Q. Now, then, the hearing was then adjourned until October 25, when the hearing was resumed on the morning of October 25. Describe the conduct of Mr. Lomasney on that morning.—A. On the morning of the 25th Mr. Lomasney came into the room, and there were in the room at the time about 40 witnesses who had been summoned by us on days previous, but whom were unable to find by the sergeant at arms. Mr. Lomasney entered the room, and rising in his place he addressed the board, stating he had the power of attorney to appear as counsel for witnesses, and asked the court to permit him to do so. The court, after hearing Lomasney, had a session behind the table and decided that the court would not permit Mr. Lomasney to appear. Mr. Albers arose and stated to the court that he wanted it distinctly understood that he, and he alone, was appearing in the interests of Mr. John F. Fitzgerald, and no one had any right to appear for Mr. Fitzgerald other than he.

Q. What did Mr. Lomasney say about the power of attorney, referring to the witnesses who were to testify?—A. He said these men were residents of the district, they were men who—

Q. He represented?—A. He represented, and they should have counsel for them.

Q. Those were the same men you were trying to have the sergeant at arms summon and bring in for over a week?—A. For two weeks.

Q. When the first witness was put on, was your counsel permitted to cross-examine that witness?—A. When the first witness was called, you asked the board whether or not you were going to be permitted to question the witness. They replied they were going to do all the questioning, and you then claimed as your right, they were your witnesses and you had the right to cross-examine them when they were asking them any questions in relation to their identity. Mr. Cunningham ruled against you on this and said they would ask all the questions that would be asked.

Q. What questions were asked each witness?—A. They asked the witness what his name was, whether or not he resided in the place from which he was summoned, on the 1st of April, and whether or not he voted on election day. You asked permission to have the witnesses show something to identify themselves other than that, and named their blue draft card, and that was also ruled out.

Q. What do you mean by that?—A. The commission wouldn't permit you to ask any questions of the witnesses, and not produce any identification other than their testimony.

Q. Did I, as your counsel, request the right to examine all the witnesses?—A. You did, each witness as he appeared.

Q. And it was denied?—A. It was denied.

Q. Going back a moment, or to when Capt. Fitzgerald of Station 3, who had charge of that ward, was called upon to testify in regard to irregularities, whether the commission would allow him to testify?—A. They would not.

Q. What did the captain say?—A. The captain, after having been sworn, was asked to—

Q. What did he say?—A. He said he started to present his evidence and the commission stopped him, and he said he had been a police officer in Boston for over 25 years, and had testified in the courts of the Commonwealth during that time on many occasions, and the testimony presented and the manner he was presenting it was the same as he had always presented it in any court, and the testimony he thought he was presenting would be allowed in any court in the land.

Q. Was the captain permitted to testify?—A. Ruled out of order and Capt. Fitzgerald left the room.

Q. When you attempted to produce evidence concerning illegal registration and illegal voting of men in ward 5, what did the board do?—A. They refused to allow us to present evidence, refusing to hear anything on illegal registration or voting.

Q. The final argument was made on the afternoon of October 25, was it not?—A. It was.

Q. And when did the board render its decision?—A. On Tuesday, October 29.

Q. Had the board insisted on the argument on the day on which the testimony was finished, or the afternoon?—A. They did.

Q. And what was the reason given for insisting on the argument on that day?—A. They insisted on the ground they wanted to close the hearing and have the ballots printed.

Q. That was on October 25?—A. Yes.

Q. Now you say their decision was not rendered until October 29?—A. Tuesday, the 29th.

Q. That left only six days between that time and election day?—A. That's all.

Q. How were you notified on October 29 the decision had been made?—A. I received notification first through the daily newspapers, although I had been to the commissioners' office every day from Friday until Tuesday.

Q. So, exclusive of Sunday, there would be left for you to carry on the campaign for Congress only five days?—A. That's all.

Q. Was there any occasion that you know of why there should have been this delay of from October 8 until October 29, or October 9 until October 29, for the hearing of this case, and the giving of a decision?—A. Absolutely none as far as I could see.

Q. What was the purpose of it, as you have been able to ascertain?—A. As far as I could see, for the purpose of delaying me so I couldn't appeal to the courts.

Q. When you found out their decision, on October 29, did you try to ascertain, or did you ascertain whether the ballots for election day were printed?—

A. Yes; we went to the secretary of state, and found the ballots, long before the decision, before we received the notice, had been sent to the printer, just as soon as the ballot law commission rendered their decision.

Q. Make it clear, I didn't quite follow you. I was engaged in talking with my associate.—A. As soon as I learned the ballot law commission had made up their decision, I went to the secretary of state, and was informed that the ballot law commission notified them of their announcement, of their decision, and immediately the secretary had printed the ballots.

Q. And the fact that the ballots were being printed made it impossible for you go to the court to appeal from the decision of the ballot law commission, did it not?—A. It did.

Q. The courts of Massachusetts have held they will not interfere with election machinery when it is so near election day?

Mr. CALLAHAN. Wait, wait, please.

Q. Now, Mr. Tague, be good enough to tell me——

Mr. O'CONNELL. Just note our objection to the remarks of the attorney, Mr. O'Connell, in the case.

Q. Having been prevented from having any recourse to the courts, what did you then do in reference to the election?—A. I was obliged to have stickers printed, and did have them printed. I was obliged to distribute them throughout the district, obliged to make my entire contest on stickers, within the five days allowed me by the ballot law commission.

Q. So that you had to carry on the campaign by furnishing a sticker to every voter?—A. I did.

Q. Then that sticker was placed on the ballot and marked for you?—A. Yes.

Q. And you had but five days in which to do that?—A. That's all.

Q. Did you have stickers printed? A. I did.

Q. Were the stickers put on the ballot or distributed to the voters?—A. We sent stickers to every voter in the district.

Q. Which must have been a gigantic task, wasn't it?—A. Yes, sir.

Q. Describe what a task it was.—A. We were obliged to get stickers printed, also sample ballots printed, showing the voter where the sticker should be placed and how marked. We were obliged to send them, in order to reach each voter, by mail. Then, besides that, we distributed stickers and sample ballots at all our meetings and rallies to every voter we could reach, and on election day had men standing at every booth distributing stickers.

Q. In the argument by Mr. Albers, as counsel for Mr. Fitzgerald, at the final summing up, how many cases of illegal voting did he admit?—A. Thirty-seven.

Q. Now, the commission made a finding?—A. They did.

Q. This is the finding set forth in Mr. Fitzgerald's answer to your notice of the contest?—A. Yes, sir.

Q. And may be referred to as such.

Mr. BERMAN. We will take a recess of five minutes.

(Recess.)

Q. During the intermission, Mr. Tague, you called my attention to the fact there were several features in connection with the ballot law commission hearing you had not testified to. Will you tell us what those features are?—A. In the case of John J. Callahan, one of the witnesses, testified the morning after Stone had been assaulted, he was called again to the stand and testified he had been threatened with assault by Senator John I. Fitzgerald, who said he would have his head knocked off. Then Mr. Burlen was called before the commissioners to testify in the manner in which the hearing was conducted by his department, especially in relation to the soldiers and sailors and the protection of the names of the soldiers and sailors.

Q. What did he say in answer to my question whether or not any precaution had been taken in relation to the Boston election commission to see those drafted in the Army and Navy were not voted on during their absence?—A. He said no protection had been made; he knew of no way of taking any precaution.

Q. Was he asked as to whether he knew a great number of men were absent from the district on account of being drafted in the war?—A. Yes.

Q. What did he say?—A. He said he didn't know anybody had been called from the tenth congressional district in the war.

Mr. BROGNA. Officially didn't know.

Q. As a matter of fact, the whole city knew thousands had been, because the names had been published in the papers, hadn't they, Congressman?

Mr. CALLAHAN. We object to that. Note our objection, please.

Mr. BERMAN. We note your objection, Mr. Callahan. You may answer.

Q. As a matter of fact, hadn't he been notified by the secretary of state of the names of soldiers and sailors, if you know?—A. Mr. Boynton, assistant secretary of state, already testified they had a list, and it had already been sent to the election commission.

Q. So his testimony to the effect that nothing had been done was not a statement—or true?—A. It was not.

Mr. CALLAHAN. I object to that.

Mr. O'CONNELL. I will withdraw that question and put it in another way.

Q. What was Mr. Burlen's attitude on the stand in reference to giving any information—

Mr. CALLAHAN. Wait, wait.

Q. To questions that were asked by me on your behalf?

Mr. CALLAHAN. I object to that.

Mr. BERMAN. Note Mr. Callahan's objection. Go ahead.

Answer. Mr. Burlen refused to answer the questions which you put to him and would answer the question just "Yes" or "No" without giving any information which you desired.

Q. Is there anything else, Mr. Congressmen, you wish to state in reference to that hearing? A. Yes. The question of the 1,000 ballots which Mr. Burlen had gone to the State printer for. During the recount we couldn't get the information from Mr. Burlen as to the thousand ballots. When asked before the ballot law commission he testified on the morning of election someone telephoned to his house—

Q. On the morning or afternoon?—A. Well, on election day. Someone telephoned his house, stating they were short of ballots. Without finding out whether or not there was a shortage of ballots, he went to the State printer, Mr. Harry McDonald, and asked a thousand be printed, and Mr. McDonald refused to print the ballots without the authority of the secretary of state—

Mr. CALLAHAN. Wait. I want to object to all this evidence on the ground it is hearsay evidence, and I understand that he says this was the testimony, but even so, these witnesses are at hand and can be summoned and we can get first-hand information, and we want the best evidence in this case, not hearsay. I wish my objection to be noted.

Mr. BERMAN. Your objection is noted, Mr. Callahan. You may answer.

A. Mr. McDonald refused to print the ballots and called up the secretary of state and told him of the request of Mr. Burlen. Mr. Burlen, when he found he couldn't get the ballots, then called up the secretary of state, and Mr. Boynton testified he ordered a thousand ballots printed.

Q. Do you know what was done with those thousand ballots?—A. Those thousand ballots were never used so far as we know.

Q. Who took them?—A. I believe Mr. Burlen received the ballots.

Q. What did Mr. Burlen say in answer to the question whether or not an attempt had been made to get the list of men who were drafted at The Ad-

jutant General's office?—A. He said he didn't make any attempt. He didn't know of any such list.

Q. What did he say in reference to how the ballots were changed around on election day from one precinct to another?—A. He said in the afternoon of election day, Mr. Finnegan had gone to several precincts and transferred ballots from one precinct to another.

Q. Had this ever been done before, transferring ballots; what did he testify as to that having ever been done before?—A. He testified it had never been done before.

Q. This was all confined to ward 5?—A. Ward 5; yes, sir.

Q. Lomasney's ward?—A. Yes, sir.

Q. Precincts right in and around the Hendricks Club?—A. Yes, sir.

Q. Now, among those whose names had been voted on was that of James Friel and Joseph Graham?—A. Yes, sir.

Q. Who were they?—A. James Friel, jr., was the son of James Friel, president of the Hendricks Club.

Q. Was the father at the booth on election day?—A. The father was there on that day and the son's name was voted on, and the son had been serving his country in France.

Mr. CALLAHAN. I object to that.

Q. He said so, in effect, if I understand it. Now, then, in reference to Graham.

Mr. BERMAN. Note Mr. Callahan's objection.

A. Mr. Graham also has a son serving in the Navy, according to the records received from the navy yard, and his name was voted on, and Mr. Graham was at the polls that day.

Q. In foreign waters?—A. Yes; in foreign waters.

Q. What office did Graham hold in the Hendricks Club?

Mr. CALLAHAN. Wait a minute. It is clearly not in the knowledge of the Congressman, and he is testifying to something he doesn't know anything about.

Mr. BERMAN. Note Mr. Callahan's objection.

Q. What position did Mr. Graham hold in the Hendricks Club?—A. Financial secretary.

Q. So the son of the president and the financial secretary of the Hendricks Club, both working in the Navy and in foreign parts, and they permitted their names to be voted upon?—A. Yes, sir.

Q. Did you have the sergeant at arms make any effort to have these men summoned?

Mr. CALLAHAN. All right. I am going to talk out loud. We can enjoy things just so far. I want to insist on my rights. I think I ought to have the right to note my objection.

Mr. BERMAN. Note Mr. Callahan's objection. Go ahead.

Q. Did you give the names of the father of Friel and father of Graham to the sergeant at arms to have them summoned?—A. I did.

Q. Were both employees working for the city of Boston at that time?—A. Mr. Friel works for the city of Boston. I understand Graham works for the county.

Q. Both working at places almost a stone's throw from the sergeant at arms' office?—A. They were.

Q. And during this contest the sergeant at arms was not able to find either one of them?—A. No, sir.

Q. And they never appeared?—A. Not until the day after the decision of the ballot law commission, they both were on hand.

Q. Where were they?—A. At the Hendricks Club.

Q. Did they ever appear at the hearing?—A. Never.

Q. Tell us about the incidents in connection with voting on the names in ward 6?—A. In ward 6, in the list we had put in of names that were voted on, there were four or five, at least four men who appeared—William A. O'Brien, 104 East Brookline Street, testified when he went to vote, they wouldn't allow him to do so and told him his name was already voted on; Mr. Cornelius Shea testified the same way; Mr. George W. Girvann testified he did not vote on election day but his name had been voted on—

Mr. CALLAHAN. Please note my objection to all of this evidence.

Mr. BERMAN. Note Mr. Callahan's objection. Go ahead.

A. William Healey, when he went to vote, he was informed his name had been voted on, and when he appealed to the election commissioners they said

they could do nothing for him. We had a witness in relation to the voting by Augustus Runci, a repeater who was arrested. Officer Eaton testified he tried to arrest Runci when he was voting on the name of a man Fufari. When he arrested him, Runci told him he had been asked to do so by Mr. Donovan, brother of Representative Donovan.

Q. Was anything done in regard to this?—A. I think Mr. Callahan said they were trying to get some repeaters, but this was common talk in ward 6 that this was going on.

Q. Was Runci present when Officer Eaton was testifying?—A. He was, and he refused to testify on the ground he would be double crossed.

Q. Whether or not we received a telegram from Mr. Howell as to his whereabouts on election day?—A. Received a telegram from Camp Dix——

Mr. CALLAHAN. I object.

A. In which he said he was not in the city on that day and didn't vote.

Q. Have you got that telegram?

Mr. BERMAN. Was his name voted on?

The WITNESS. His name was voted on.

Q. Was there offered to the ballot law commission the list from the election commission you brought showing all these names you complained of had been actually voted on at the primary.—A. We submitted the certified list——

Q. This was in ward 6?—A. Yes; and saw to it that the election commission sent the certified copies from the list voting on that day, the actual copies.

Q. And did the ballot law commission check up and find the names had been voted on?—A. They did.

Q. And among them was John J. Howell?—A. Yes, sir.

Q. And it had been voted on?—A. Yes.

Q. Is that the telegram?—A. Yes.

Mr. O'CONNELL. I offer this telegram.

Mr. CALLAHAN. I object to it, because it can't be properly authenticated.

(Telegram read by Mr. O'Connell and marked "Exhibit 8.")

(Suspend a few moments while counsel looks for records.)

Q. Now, Mr. Tague, the name of George E. Mealey, 1300 Washington Street, was produced as having been voted on on the list, was it not?—A. Yes, sir.

Mr. CALLAHAN. I object.

Q. What was the testimony as to the condition of Mr. Mealey on election day?

Mr. CALLAHAN. I suppose I can enter a general objection here that this evidence can be deduced by proper witnesses, if it can be deduced at all.

Mr. GOODWIN. It is conceded by both parties.

Mr. CALLAHAN. It is not in the knowledge of the Congressman, only by hearsay.

A. It was conceded to be evidence and we went down and took his deposition, and agreed it was so.

Mr. CALLAHAN. I make a general objection to all of this evidence.

Mr. BERMAN. Note Mr. Callahan's objection.

Q. As the result of our request that the deposition of George E. Mealey be taken, was it conceded by Mr. Albers, representing Fitzgerald, that Mealey didn't vote on election day?—A. It was, on the evidence produced.

Mr. CALLAHAN. If the Congressman is willing to agree with the finding of the ballot law commission we shall be glad to abide by the decision. I understood this was a new trial, because you were not satisfied with the decision of the ballot law commission, and got to put in that evidence again. The Congressman has a pretty good memory, I know, but he is apt to make some mistakes, and I would like to have him know this is a new hearing, and we ought to have the best of evidence. We don't want second-rate evidence. We don't want hearsay evidence.

Mr. O'CONNELL. In answer to that, of course, the hearing was held, and the evidence that we are putting in now is substantially, if not in fact, exactly what it was at this time. Of course——

Mr. CALLAHAN. It can be deduced in the same way.

Mr. O'CONNELL. Mr. Albers at that time conceded 37 irregularities, but there is this further to it, that board would not consider illegal registration and illegal voting. If they had allowed testimony to go in about illegal voting and illegal registration, designating at least two to three hundred of those ballots given to Mr. Fitzgerald, and Mr. Tague would be adarded without any question the verdict, you ask us to agree on what was done. I am ready to agree with you as to testimony, as testimony went in. I am not ready to agree with

you as to the finding made by that commission after their long delay and mystery surrounding the whole affair. Congress only is the judge of that. In fact, I maintain their findings were all wrong and people in the district to whom the appeal was made didn't agree with that ballot law commission.

Mr. CALLAHAN. I suppose a commission that is going to make any investigation, or any congressional committee, will require the best evidence. If this hearing before these two judges is simply to be evidence given by the Congressman and by yourself, and you are going to take it upon yourself and testify, to tell what everybody is going to testify, why, all right; but I think the congressional committee will require the best evidence, and I think it ought to be submitted as a matter of fact. You have had the Congressman describe the conduct of this commission, have had him describe the conduct of certain men, Mr. Lomasney, and certain men that were hanging around the corridors and passageway, and now you are having the Congressman testify what everybody testified in that hearing. I supposed we wanted the best evidence here. At any rate, I want my objection noted.

Mr. BERMAN. Note Mr. Callahan's objection.

Mr. O'CONNELL. I shall introduce here, at this time, the report of the adjutant general's office, as to the absence of these voters on election day.

Mr. CALLAHAN. I want my objection noted as to the admission of that evidence, because the adjutant general is here in Boston, or his office, and can be summoned properly, and evidence can be gotten in the right way, and is the best evidence.

Q. Mr. Congressman, will you hurry along and tell us the rest of the other features that you had in mind should be brought out.

Mr. CALLAHAN. Do I understand you submitted something as an exhibit?

Mr. HARRINGTON. No; we are going to. We haven't got it here.

Q. Go ahead, Mr. Tague.—A. Mrs. Bessie Goldstein, mother of Samuel, one witness who testified——

Mr. CALLAHAN. To that I object.

Mr. BERMAN. Note Mr. Callahan's objection.

A. She was cross-examined by Brother Mancovitz. I'm no lawyer, but if anybody was treated cruelly before court, it was on that day.

Mr. CALLAHAN. I object to anybody characterizing the attorney or anybody.

Mr. BERMAN. You reserve a general objection to all of this testimony. Why not let it go in subject to a general objection?

Q. Do you recall the incident of the attempt on the part of Jakie Rosenberg to have the testimony given by Mr. Davis changed, and the daughter coming in the following day for the purpose of changing it? Do you recall that incident?

Mr. MANCOVITZ. The court rules it should be a statement of facts.

Q. Had you finished about Goldstein?—A. Yes; she testified her boy was in France and not home that day.

Q. Had his name been voted upon?—A. Yes; then Israel Davis, the father testified he was in Alabama. His name was voted on.

Mr. CALLAHAN. I object to that.

Q. Who was this Rosenberg who was hanging around the commission hearing at that time?—A. He's a member of the Hendricks Club.

Q. What's his business?—A. I'm sure I don't know. I think he works for the city, I don't know though.

Q. Go ahead, Mr. Congressman.—A. There was one witness came in and testified she had——

Mr. CALLAHAN. I don't suppose, Mr. O'Connell, you want your witness to read from notes?

Mr. O'CONNELL. I am not having him do it, sir. He is refreshing his recollection from any notes he had.

A. These are my notes. Samuel Grosman, his daughter came in and testified, and said, Jakie Rosenberg came out in the corridor and held him up in the corridor before he testified, and Samuel Grosman testified Rosenberg came up to him before he testified, and the sister testified Rosenberg came to her home on September 14 and asked her to come up and testify.

Mr. BERMAN. Do you mean September 14, or October?

The WITNESS. This was October.

Q. Have you any further features, Mr. Congressman, you wish to bring out as to the manner and conduct of the ballot law commission?—A. I think that's all.

Q. Referring to Mr. Piscopo, who was summoned to bring forth the books of the Hotel Lucerne, who is Piscopo?—A. He said he was the owner of Hotel Lucerne.

Q. What's the Hotel Lucerne?—A. A small hotel down near the North Station.

Q. Resorted to for what purposes, moral or immoral?

Mr. CALLAHAN. Wait a moment. Whether he is qualified to state from his own experience.

Q. General reputation is what I am after. I will withdraw that. What kind of a house is it? Tell us in the first place where it is located.—A. Located on Causeway Street, corner of Nashua.

Q. What ward?—A. Ward 5.

Q. Is it a house where people generally resort for food and lodging?—A. I never knew it to be.

Q. It is located near the North Station, Boston?—A. Yes.

Q. What did Mr. Piscopo, how many names were registered from that hotel on the night of April 1?

Mr. CALLAHAN. I want to make a specific objection on that, because we don't believe that the question of registration enters into the examination, by the congressional committee at this time, and we also allege in our demurrer that the Congressman didn't take advantage of his rights under the law, and, therefore, this is not the best evidence.

Q. When Mr. Piscopo was asked to bring forth his records, what did he say about the records?—A. Said they had been destroyed.

Q. How many were registered from there?—A. I think over 50.

Q. None of them permanent residents of that hotel, were they?—A. They couldn't be found when the sergeant at arms went after them.

Q. What did Piscopo say when he was asked if he could recognize any of those people or not?—A. When asked if he could recognize any of the men, he said he could not.

Q. When he was asked if anybody would know, what did he say?—A. Said "No."

Q. What about the hotel register, did he have that with him?—A. No, he said the register on that date had been destroyed.

Q. Now, Mr. Congressman, what else is there about that hearing that you wish to tell us about.—A. I think I have covered it all.

Q. You might refresh your recollection.—A. There's nothing we've not gone over. There was one occasion I have in mind, was when the names were presented to the commission, bearing the names of the soldiers and sailors. Maj. Dalton, of the adjutant general's office, sent for the names we submitted by you to the commissioners. The commission was about to submit them to Maj. Dalton when Mr. Albers asked that he be allowed to see the list. The list was shown to Mr. Albers with the distinct statement of the board that no copies were to be made of the names. The list was handed to Mr. Albers, and as soon as Mr. Albers got the list in his hand, Mr. Mancovitz and John I. Fitzgerald immediately began making a list of the names, notwithstanding the ballot law commission had asked them not to do so.

Q. Now, then, as the result of the failure of the Ballot Law Commission to consider evidence that was presented concerning illegal registration and illegal voting, and also as the result of their decision wherein they found fraud had been committed, but not quite enough to satisfy them, you say you were obliged to run on stickers?—A. Yes, sir.

Q. And that you had only five days before election day in which to conduct your campaign in that election contest, describe how the election was conducted.—A. On the few days before the election—no, the morning of the election, I had men who were helping me placed at the several voting booths to challenge voters—

Q. Prior to election day, had you taken any measures to see that there would be no fraud, to prevent fraud on election day in ward 5.—A. Yes, sir.

Q. What had you done?—A. Under the law, I petitioned the governor, filing with him the names of 10 men in wards 5 and 6 to act as extra precinct officers. When it came around time to select the men, I found Mr. Lomasney, or they said John I. Fitzgerald had filed a list of 10 men. I notified the governor. Mr. Lomasney, at that time, had full control, not only of the Democratic but Republican precinct officers, and I was entitled to representation behind the rail under the law, and that's what the law was for. The lists were drawn out and in ward 5, notwithstanding I had filed my petition, fulfilling the requirements

of the law, not one single representative was allowed me by the governor's office.

Q. What did the governor's office do in reference to appointing men?

Mr. CALLAHAN. I desire to make an objection here. I would like to have it noted. I don't suppose Mr. Fitzgerald can be held responsible for what the governor has done. I don't suppose there was any collusion between the governor and Mr. Fitzgerald.

Q. Who were the men the governor's office appointed?—A. They were men submitted by Representative John I. Fitzgerald.

Q. So, on election day, in ward 5, in Mr. Lomasney's ward, he had complete control of the election machine?—A. He did.

Q. And you were not allowed to have a single man within the rails?

Mr. CALLAHAN. I object to that.

Mr. BERMAN. Note Mr. Callahan's objection.

Q. Now, then, what did you do on election day, or describe what was done, particularly as far as ward 5 is concerned.—A. On election day, I placed at each voting booth men with lists to challenge men whom we knew to be illegally registered.

Q. What ward?—A. In ward 5. One of the men serving for me, John T. Gibbons, in ward 5, five minutes past 6 he telephoned me——

Mr. CALLAHAN. Wait. I object to this. Mr. Gibbons is here in Boston; he can be summoned.

Q. Go ahead.—A. Mr. Gibbons telephoned me he had been put out of the voting booth by the warden. I immediately went to precinct 8 of ward 5 and met Mr. Gibbons in the street. I then went into the voting booth to find out why he had been removed and was told there had been a discussion. I was told to go to the sergeant of the police, Sergt. Lewis. I talked with Sergt. Lewis, and told him that was one of the old-time tricks in politics of having men get into controversies, and those men that were stationed there for the purpose of challenging votes would be the men to be removed. I brought Mr. Gibbons back into the booth, and immediately upon his entering the booth, the warden demanded of the sergeant of the police that he be removed on the ground he ordered him out. The sergeant of the police refused to remove him, stating he had a right there, he was a citizen.

Q. Did you leave the booth then?—A. No. Mr. Gibbons began challenging votes, as they came in, from a list I supplied, and while in there he challenged about 20 men.

Q. Were those illegal voters?—A. Every one of them.

Mr. CALLAHAN. I object.

A. While he was challenging, the warden raised more objection than anybody else, and enough so it was noticed by the sergeant of the police and Mr. Gibbons was given the benefit of the law.

Q. What happened then? I suppose you had to go to other parts of the ward?—A. I did, and later when Mr. Gibbons had been removed and another man named Lebosky was working for me, was removed, and a man named McCarthy who was working for me was assaulted by a man, and Mr. Halperin was going by the precinct at 7 o'clock in the morning on his way to work and he was accosted by Mr. Fitzgerald's workers in the ward, when he told them he was going to vote for me in East Boston he was assaulted. I think Mr. Glynn was the name of another man who was assaulted on election day, while attempting to challenge illegal voters in my behalf.

Q. Were these challenges Mr. Gibbons was making accepted at that time while you were present?

Mr. CALLAHAN. I object to that.

Mr. BERMAN. Note Mr. Callahan's objection.

A. The challenges were made and the warden at least went through the form. We weren't permitted to see whether the challenges were accepted or not.

Q. After that, was any other challenge permitted there that day you know of?—A. Other challenges were made. As soon as they were made that was when the supposed row started and they put Gibbons out of the room and that was the reason Mr. McCarthy was assaulted, for making challenges.

Q. What else happened in ward 5? Are there any other features about that election day you want to speak about? You can consult your notes.—A. I haven't any notes on election day.

Q. What did you discover, that stickers were being used throughout the district, other than you furnished?—A. During the afternoon word came to me that a sticker had been printed by my opponent and was being distributed, especially in East Boston, and up at the South End.

Mr. BROGNA. Note our objection as being purely hearsay.

Q. Have you got any of those stickers with you?—A. I have one.

Q. Is this the kind of a sticker you were using?—A. That is the sticker I had printed.

Mr. O'CONNELL. I offer this.

Q. Now, then, is this the kind you found as being——A. That's the sticker that was being distributed on that day.

Q. Your sticker has gum on it all over? A. Yes, sir.

Q. And the other sticker has no gum?—A. No gum at all.

Q. So the sticker that was being used throughout the district——

(Sticker with gum, marked "Exhibit 9.")

Q. Your sticker reads as follows: "Peter F. Tague for Congress tenth district," with space for a cross to be marked?—A. Yes, sir.

Q. And the other sticker——

Mr. CALLAHAN. I suppose, before submitting this as evidence, the Congressman ought to testify where he got it, and what knowledge he has, of his own knowledge, what does he know of his own knowledge as to the use of those stickers. I think those are preliminary questions. This is clearly not admissible unless properly offered.—A. That sticker was secured by me from the ballot box of precinct 1, ward 1.

Q. That sticker, referring to the one——A. That sticker there [indicating].

Mr. CALLAHAN. I would like to know what evidence the Congressman can offer as to the use of these stickers?

Mr. O'CONNELL. We will give it to you, and you will have all the opportunity in the world to cross-examine.

Mr. CALLAHAN. I don't suppose it can be admitted unless proper ground is laid for its foundation, and if I keep it I don't suppose it will be admitted anyway. Please note my objection to the admission of that sticker as it is.

Mr. BERMAN. Note Mr. Callahan's objection.

Mr. O'CONNELL. This sticker reads——

Q. Did you ever see this sticker until you found it on election day?—A. No, sir.

Mr. O'CONNELL. This reads, "Peter F. Tague, Boston, Congressman," and this has no gum and was not being distributed by your men?—A. No, sir; not being printed by me or in my interest, and the ink is not the standard ink covered by law.

Q. What parts of the city——

(Sticker without gum marked "Exhibit 10.")

Mr. O'CONNELL. Exhibit 10 counterfeit sticker without gum.

Mr. BROGNA. We object to the word "counterfeit" sticker. You refer to it as "gummed." We ask to have it stricken from the record.

Mr. BERMAN. It may be stricken from the record.

Q. What parts of the city were those counterfeit stickers being distributed in?—A. I found them being distributed in East Boston and precinct 1, ward 6.

Mr. BROGNA. Note our objection; it is only hearsay.

Mr. BERMAN. Objection is noted.

Q. As a result of the election——

Mr. CALLAHAN. I submit the Congressman is going to be here to-morrow, and I think 4 is a decent hour to quit. We have regular appointments and something besides taking evidence in this case.

Mr. O'CONNELL. The only trouble, Mr. Callahan, is, we could finish this thing. I don't think it will take very long, with Mr. Tague's direct testimony.

Mr. CALLAHAN. I think at this time it ought to be settled and settled finally for the first week; at any rate, what hours to come here and what hours to leave. I don't suppose you can give all your time, and I know all our time can't be given to these hearings, and we think they ought to be conducted within a regular limit. I think, come at 10 and leave at 4 we are doing a pretty good day's work.

(Long controversy over the hours of the hearing; finally decided to continue at this time for a short while.)

Q. Now, Mr. Congressman, as the result of the unofficial reports of the election, the results showed that Mr. Fitzgerald had received a plurality over you of how many votes?—A. Three hundred and forty-seven.

Q. Three hundred and forty-seven?—A. Yes; I think those are the figures. I'm not very clear on that.

Q. Now, then, what happened on the night of election as to the returns? Did the returns come in promptly from ward 5?—A. No; they did not. They came in just the same way they did on the primary.

Q. Tell us how they came in.—A. On election night, precincts 3, 7, 8, and 9—I believe those are the precincts—were held out until every other precinct in the city was turned in.

Q. Are those precincts very close and adjoining the election commissioners' office?—A. Yes, sir.

Q. Under ordinary circumstances of an election they would have their returns in first, being the precincts nearest from which the returns are to be made?—A. Yes, sir.

Q. Now, when the last return came in from ward 5, how late at night was it?—A. I think, about 9 o'clock.

Q. You petitioned for a recount?—A. I did.

Q. And a recount for election day was held?—A. Yes, sir.

Q. When election day recount was held, I will ask you if it was in the manner in which the recount should be conducted?—A. We then asked that the ballots that were to be counted be counted at one table, and each ward counted singly, and that was to give me an opportunity to see that every vote had been cast, and give an opportunity to protect my rights on the ballots.

Q. What did the board do?—A. The board decided they would not permit it, and they didn't continue to count those wards at the one time.

Q. This required you to get another representative? A. I did.

Q. As the result of that was the recount conducted in some wards without a representative from you? A. When they opened the hearing, I think there was only one representative, although we are entitled to two, there was only one representative in wards 1, 2, and 6.

Q. Describe how this election commission's attitude was at this recount after refusing you this opportunity of recount vote by vote. A. The board refused to count the ballots at one table and wanted the count to go ahead, and Mr. Burlen came out and said all challenged votes would be put aside and sent in the commissioners' office.

Q. Was there any confusion during the two days of the recount? A. Quite a little confusion, more so than almost any other recount I ever attended.

Q. Was that confusion the result of any effort on the part of Fitzgerald's followers to confuse your people who were helping you?—A. I think so.

Q. Describe the conduct of the commission, and the manner in which they conducted the recount.—A. When the challenged votes were laid aside, or brought in the room, the commissioners sat at the table, or a representative of Mr. Fitzgerald, and as each vote was questioned, and you had made your allusion to your claim on the ballot, the commission acted the same as they did in the primary, showing very clearly to me they didn't intend I should have the fair chance I should have.

Q. Tell us what they did and how they did it.—A. The commissioners counted the ballots, as they came in, according to their own interest. On one occasion the question came up on account in ward 1, Fitzgerald's representative claiming there was a mistake in those precincts. The man at the table refused to recount that precinct, or that block in the precinct, and the question came before the board, and it was decided that they would recount the precinct. Then, we made the same claim in precincts 1 and 2 of ward 6, where we knew there had been an error, and the board then agreed after ward 6 was finished they would recount the votes in ward 6, in precinct 1 and precinct 2, Mr. Finnegan was then marking. When the question came up of recounting precincts 1 and 2 of ward 6, Mr. Burlen stated they agreed to allow that and Mr. Finnegan objected and said he would stand by the original counts in precinct 1 or 2, he didn't care whether the board wanted a recount in precinct 1 or 2, or not, he would stand by the decision as it was originally made, and he wouldn't sign any certificate, if there was one to be made in the precinct. The recount was held in the precinct, and we got 9 votes in the precinct.

Q. What did Finnegan do?—A. He got up from the table and left the room.

Q. When he found out?—A. When he found out the recount was going to be made.

Q. What about Commissioner Murphy?—A. During the recount Mr. Murphy on almost every occasion when a challenge was made objected to having a recount made.

Q. What was his phrase in reference to it? You don't recall?—A. I recall a few of them, but I don't think they would stand here. Generally, he said, "I object."

Q. What did the election board do in reference to a ballot wherein a sticker was placed, but the cross was not exactly opposite your name?—A. Threw that ballot out.

Q. What did they do with the ballots on which the stickers were placed, on which the cross didn't happen to be?—A. Threw them out.

Mr. CALLAHAN. Wait, I object to this. This is not the best evidence.

Q. What did they do in reference to the ballots in which your name was expressly written, "Peter F. Tague, Boston," although the cross was not placed, although it was in the place where the candidate for Congress was voted for?—A. Refused to count those.

Mr. CALLAHAN. I object to that for the same reason.

Q. If they had counted those votes, what would have been the result?—A. I would have been nominated.

Q. You would have been elected?—A. I would have been elected.

Q. As the result of the recount which was conducted the original recount of 347 was reduced to how much?—A. Two hundred and thirty. There were also some challenged votes there too.

Q. In reference to the votes that were challenged what did the board do in reference to those?—A. When the challenged votes came in there was supposed to be a number put on those votes, and the board decided they would not be seen, and then the numbers were removed from the ballots and the ballots put back in their place.

Q. How does the number of 22 challenges that we know on election day compare with the number of voters which were challenged by your men?—A. I couldn't tell you.

Mr. CALLAHAN. I object.

Mr. BERMAN. Note Mr. Callahan's objection.

Q. During this recount, was the election office besieged by the Fitzgerald and Lomasney leaders and cohorts?—A. I should say they were.

Q. How many should you say were around there?—A. It looked like a relay race through the corridor with Fitzgerald adherents running back and forth through the corridor from—

Q. From whom?—A. From Mr. Murphy to Mr. Fitzgerald and Brother Henry and Dick Field and others in the corridors.

Q. Now, Mr. Tague, before I close, I forgot to ask you to describe the Hendricks Club. You have referred many times to the Hendricks Club and I don't believe the record will show what is meant by the Hendricks Club. Describe so the committee will understand just what the Hendricks Club is, where located, and its purpose.—A. The Hendricks Club is located at the corner of Green and Pitts Street. It is an organization known as the political organization of Martin M. Lomasney, and he is the controller, general, chief, general and all.

Q. Is it confined to any one political party?—A. I don't think so. Mr. Fletcher is seen there very, very often. He is apparently a member. He is the Republican nominee for Congress.

Q. How large a place is it?—A. Large room.

Q. Does Mr. Lomasney make it his personal headquarters?—A. It is his office. That is, part of the room, the inner office is his office.

Q. Located in ward 5?—A. Yes.

Q. Not far from city hall?—A. No.

Q. What is the membership of the Hendricks Club composed of principally? What walks of life do the men come from?—A. All walks, a great many city employees.

Q. Now what is the situation in reference to the colonization that exists in ward 5?—A. In ward 5, on investigation made and being made. I think, revealed the fact there were over 1,000 men voting in that ward that don't even live in the city, before this case closes we will have men that will give evidence of that many—

Mr. CALLAHAN. Please note our objection to that answer.

Q. Are these men affiliated with the Hendricks Club?—A. According to the way they voted they must be.

Q. How many rooming houses are there in that district, are there many?—A. Great many.

Q. Are many of these hotels such as you describe the Hotel Lucerne to be?—
A. Quite a few of them, quite a few sort of inferior grade.

Q. Do you know how many hotels of that class there are in that district? How many can you name?—A. There is the Bowdoin House, the Derby House, the Merrill House, the Haymarket, the Falmouth, I think is the name, the Bowdoin Square, the St. James, I can't think of those down Vincent's way.

Q. What is the custom which is taken by the political club when the names of the candidates are to be announced and what is done, if you know?—A. Generally announced the Sunday before election.

Q. How? A. By a meeting of the club.

Q. Presided over by whom?—A. Generally by either Mr. Lomasney or Mr. Fitzgerald—John I. Fitzgerald.

Q. What happens at that time, if you know?—A. The candidate who they are going to select is generally introduced to the members.

Q. Who determines who the candidate is?—A. Martin.

Q. Martin who?—A. Lomasney.

Q. Anybody else?—A. Nobody else has anything to say as far as I know.

Mr. CALLAHAN. I object to the answers.

Mr. BERMAN. Note Mr. Callahan's objection.

Q. Did the Boston papers carry a story as to the manner in which the meeting was conducted on Sunday, prior to election day, in which, describing in full Martin Lomasney jumped from the presiding rostrum, took off his coat, and in his rage stamped all over it, saying that you must be defeated at all costs?—A. I wasn't present, but the papers quoted him as being very angry.

Q. Anything, Mr. Tague, you think off?—A. No.

Mr. O'CONNELL. Then we rest.

Mr. CALLAHAN. I suggest we adjourn until we come in to-morrow morning.

(Controversy about the hours of holding the hearing. Finally decided to come in at 10 o'clock, Thursday, February 20.)

PETER F. TAGUE.

Testimony taken in room No. 395, Federal Building, Boston, Mass., February 24, 1919, at 10 a. m. before Abraham C. Berman, esq., and David Mancovitz, esq., as notaries public.

Counsel: Joseph F. O'Connell, esq., for the petitioner; John P. Feeney, esq., and Timothy F. Callahan, esq., for the respondent.

Notary BERMAN. The hearing will now be resumed. Before proceeding with the hearing, I want to find out if the following witnesses answered the summonses.

(List of witnesses summonsed was read off.)

Mr. HARRINGTON. Will your Honor announce, if any of those witnesses come, they shall report, because at the end of the day, all those who have not reported, we are going to ask that the matter be referred to the district attorney, so we do not want to refer anyone to him if they come here, or anyone representing them.

Notary BERMAN. That may be understood, that all witnesses who are summoned here must appear, and those who do not appear, the aid of the law will be invoked to bring them here.

Mr. CALLAHAN. I think it might be well, at this time, Mr. Notary, so that witnesses won't be intimidated, that no threat be made here. I think it might just as well be understood what rights the district attorney has in his. My brother, I think, is trying to give witnesses the impression that if they do not come here they will be prosecuted.

I want the witnesses to know, and I want it to go on the record, that if the witnesses are not here, they will not be prosecuted. There is no process of the law, there is no statute that says that witnesses will be prosecuted or can be prosecuted.

Mr. O'CONNELL. Do I understand from that, you are inviting witnesses who are duly summoned here not to come?

Mr. CALLAHAN. Certainly not; but I object to the words of the counsel, and the words of Mr. Harrington when he tries to intimidate witnesses.

Mr. HARRINGTON. I want to say I wasn't trying to intimidate them. The reason that I requested that they report to you was just to prevent that. We will supply to your Honor at the end of the day a list of those who have not reported, and send their names to the district attorney according to the law as the law provides, for indictment. My only idea was to give those who come

here a chance to report so we will not make any mistake—no intimidation, no threats. It is going to be done.

Mr. CALLAHAN. I suppose, Mr. Notary, that witnesses if they are summoned will honor their summons. But if they do not honor their summons, Mr. Harrington knows perfectly well that there is no statute that we can call to the attention of the court which says that witnesses can be prosecuted for not coming here to testify.

Mr. O'CONNELL. If your Honor please, I would like at this time—there is no sense in this discussion—I would like to have you read so that the public may understand it and the witnesses may understand it, just what the law is as laid down in that section of the statute referring to witnesses summoned before investigations of this kind. I think that would clear the atmosphere.

Mr. CALLAHAN. You know perfectly well, and every one of you know perfectly well.

Mr. O'CONNELL. Never mind any argument.

Mr. CALLAHAN. Now, Mr. Notary, let me understand whether there is one attorney here conducting this case, or three.

Mr. O'CONNELL. Go ahead and read the law.

Notary BERMAN. You know who counsel for Mr. Tague is?

Mr. CALLAHAN. Yes; but I do not like to——

Notary BERMAN. And they know who counsel for Mr. Fitzgerald is.

Mr. CALLAHAN. The suggestion of Mr. Harrington was a threat, pure and simple.

Notary BERMAN. It wasn't intended as a threat, and I do not consider it was a threat.

Mr. CALLAHAN. I ——

Notary BERMAN. And what I said wasn't intended as a threat.

Mr. CALLAHAN. Want people to know their rights.

Notary BERMAN. All the witnesses who are summoned in the court are reminded of a section of the Revised Statutes of the United States which reads as follows:

Mr. BROGNA. The section, please.

Notary BERMAN. In this pamphlet which I have in front of me——

Mr. CALLAHAN. Isn't it a paper? Read the real statute.

Notary BERMAN. It is called section 116.

Mr. O'CONNELL. Of the Revised Statutes of the United States.

Notary BERMAN. (Reading:)

"Any person, having been summonsed——"

Mr. O'CONNELL. For your information, let me state to you that this is the Revised Statutes, United States Revised Statutes. You will find it in volume 1.

Mr. CALLAHAN. I know perfectly well he isn't reading from the Revised Statutes. He is reading from a pamphlet.

Notary BERMAN. This is the statute pertaining to summonses of witnesses, and this statute will be vigorously enforced against all witnesses who violate it regardless of what counsel for Mr. Fitzgerald may say or think.

Mr. CALLAHAN. Now, I submit, is that in the statute?

Mr. O'CONNELL. Go ahead.

Notary BERMAN. This is what I am stating, the preamble to my reading of the statute.

"Any person, who, having been summonsed in the manner above directed, refuses or neglects to attend and testify, unless prevented by sickness or unavoidable necessity, shall forfeit the sum of \$20 to be recovered with costs of suit by the party at whose instance the subpoena was issued, and for his use, by an action of debt in any court of the United States; and shall also be liable to an indictment for misdemeanor, and punished by a fine and imprisonment.

Proceed, Mr. O'Connell.

Mr. O'CONNELL. I guess that is strong enough and plain enough.

THOMAS H. GLYNN, sworn.

Q. (By Mr. O'CONNELL.) What is your full name?—A. Thomas H. Glynn.

Notary BERMAN. Have you been sworn, Mr. Glynn?

The WITNESS. No, sir.

Notary BERMAN. Do you solemnly swear that the testimony you shall give in the cause now in hearing shall be the truth, the whole truth, and nothing but the truth; so help you God?

The WITNESS. Yes.

Q. Your full name?—A. Thomas H. Glynn.

Q. Your business?—A. Cotton broker.

Q. Where do you live?—A. No. 9 Helen Street, Dorchester.

Q. And on the election day of November 5, 1918, were you present in ward 5, Boston, on election morning?—A. I was.

Q. You had gone there because you were interested in the candidacy——

Mr. CALLAHAN. Why don't you let him tell why he went there?

Q. You went there because you were interested in the candidacy, and because of your friendly interest to Mr. Tague?—A. Mr. Gibbons.

Q. Mr. Gibbons? Mr. Gibbons is a friend of yours?—A. Yes, sir.

Q. Now, will you state briefly what part of ward 5 you first went to?—A. On the morning of election, I went to what they call the Municipal Building, in ward 5.

Q. What was your purpose in going there?—A. With a check list——

Mr. CALLAHAN. Now, have him tell what he did and what he saw.

Q. Go ahead.

Notary BERMAN. Proceed.

The WITNESS. With a check list of the voters of that respective precinct, with the sole purpose of checking off the names as they voted. I went there and reached there about 5.50 in the morning, and it was 10 minutes before the polls opened, and when I reached there I stood up against the building, and I made no remarks or had any conversation with anybody until Mr. Fitzgerald, John L., came down to me and he said, "What are you doing down here to-day?" I did not answer to that particular question. He seemed to be a little bit peeved. He said, "You belong in Dorchester." And to that question I said, "I am interested and have a right to be here, Mr. Fitzgerald, because there is a Dorchester candidate running for Congress." He said, "We will take care of you," and he walked back from the spot on which I stood and I said, as we parted, "I have some rights. I came here as a gentleman, and I hope I will be allowed to part from here as a gentleman." Of course his statement——

Mr. CALLAHAN. Now, will you please——

Q. What did you understand by his statement to you?

Mr. CALLAHAN. Now, wait, wait. I submit that isn't a proper question.

Notary BERMAN. Note Mr. Callahan's objection. You may proceed, Mr. Witness.

Mr. CALLAHAN. Now, don't you believe these things ought to be conducted properly?

Notary BERMAN. They are being conducted properly.

Mr. CALLAHAN. Do you mean to say that this witness is permitted to testify except just as to what was said and what was done? No conclusions or assumptions or anything else; he is permitted to testify to——

Notary BERMAN. I made my ruling, and your objection is noted, Mr. Callahan. You may proceed, Mr. Glynn.

The WITNESS. His statement, as it came—in the manner it came—warranted me to believe that if I did not leave there——

Mr. CALLAHAN. I object to that.

Notary BERMAN. Note Mr. Callahan's objection.

The WITNESS. I might have had him carry out his statement relative to be taken care of.

Mr. CALLAHAN. If you think counsel is wrong, Mr. Witness, testify in your own way.

Mr. O'CONNELL. One second, I notice we have proceeded without our stenographer.

(Short recess, to await arrival of petitioner's stenographer.)

Mr. FEENEY. We offer to give you a copy of the evidence from an official court stenographer.

Mr. O'CONNELL. We will wait for our own stenographer, a reasonable length of time.

Mr. FEENEY. You have already spent 28 days on this down to Palm Beach yourself, when you should have been trying this case, and when your 40 days are up, I don't want you to make any complaint that we have been wasting your time, when I offer to give you a copy free of charge of an official stenographer's copy.

Mr. O'CONNELL. You have used up now a page of testimony.

Mr. FEENEY. I have used up a page of testimony, but I am trying to get you to use common sense. I offered to give to you the evidence and you don't accept this offer.

Mr. O'CONNELL. What I started to say, Mr. Feeney, was this: We will wait a few minutes, and if our stenographer does not come along within two or three minutes, I shall be very glad indeed to accept your offer.

Mr. FEENEY. Thank you.

Mr. O'CONNELL. No need of you using three pages.

Mr. FEENEY. Why don't you go ahead now, and if your stenographer comes in two or three minutes we will then give you the evidence. You haven't any doubt but what Mr. Kenney is an official stenographer and a man you can rely upon?

Mr. O'CONNELL. Well, you evidently the other day wouldn't rely upon him. I was willing to agree with you the other day that the testimony that was taken by your stenographer would be accepted as the evidence to go into the case, and you objected and wouldn't agree to it.

Mr. FEENEY. We simply wanted to have no mistake later on, to have your own stenographer. That was the idea of that. We wanted each witness to sign the testimony.

Mr. O'CONNELL. What do you say now about it?

Mr. FEENEY. I say now we want the testimony signed, so the witnesses can't say later on that the testimony was improperly taken, so you can't say our stenographer didn't give you a proper transcript of the evidence. Now, we will give you a transcript of the evidence in the absence of your stenographer, and your witness can read it and your witness can sign it, and you won't have a chance later on to complain about the taking up of time.

Mr. O'CONNELL. Now, have you finished? Have you got anything more to say?

Mr. FEENEY. I can see just what you are trying to do.

Mr. O'CONNELL. If you have anything more to say, please say it, because then I want to say something. I am not going to try to say anything with you butting in on me every time I try to say a word.

Mr. FEENEY. Evidently you haven't got much to say—sensible to the last.

Mr. O'CONNELL. Thank you for that. I knew I would win it from you. Mr. Feeney, I was going to say to you our stenographer has arrived.

Notary BERMAN. We will proceed, Mr. O'Connell.

Mr. O'CONNELL. Will you be good enough to give me your attention?

Mr. FEENEY. Oh, speak up, speak up.

Mr. O'CONNELL. We will go all over this thing again. Mr. Glynn, take the stand, please. Now you want to waste time this way, now waste it.

Notary BERMAN. Why not, Mr. O'Connell, have your stenographer take the record as far as it has been testified to this morning by this witness, and proceed from there on?

Mr. O'CONNELL. That was the suggestion I was going to make to Mr. Feeney, but he was so cavalier in his manner, that I did not have a chance to get it out of my mouth.

Mr. FEENEY. I have offered to give him a copy of the evidence of the day. I have offered to have the hearing continued while his stenographer was away under some misapprehension, and offered to give him a copy of the evidence. I will give you a copy of the hearing up to date now, if that is what you want.

Mr. O'CONNELL. That is all right.

THOMAS H. GLYNN, recalled:

Q. What did you understand by Mr. Fitzgerald's statement to you at that time?—A. The statement, as it was made, and the movement of the arm was nothing more nor less than what I should consider a threat.

Q. You are a cripple?—A. Yes, sir.

Q. And you get around—you have to use two crutches in order to get around?—A. Yes, sir.

Q. And this John I. Fitzgerald is Senator John I. Fitzgerald?—A. Yes, sir.

Q. One of the chief lieutenants of Martin M. Lomasney?—A. Well, according to what I understand.

Mr. FEENEY. Keep your voice up.

Q. And has represented this district—Ward 5—in the Massachusetts senate for two years?—A. Yes.

Q. And took a very prominent part in the Tague-Fitzgerald contest in favor of John F. Fitzgerald?—A. In the precinct I was in, I guess he did.

Q. Now, as the result of his threat to you, what did you do?—A. Well, I just watched the movements of the other men around there, and quietly and almost inch by inch, or foot by foot, I looked over all the automobiles, and when I got

out of reach of about everybody that I thought might want to injure me, why, I went right up to Cambridge Street, and I knew I was in the zone of safety, and I went then down to where Mr. Gibbons was stationed, and I——

Q. Where was that?—A. That was on Blossom Street, I believe.

Q. One of the other precincts in the ward?—A. There were other precincts in the ward.

Q. This was one of the other precincts you speak of?—A. Yes; I went to Mr. Gibbons, where he was stationed on Blossom Street, and explained matters to him.

Q. Was he inside a voting booth?—A. He was inside the booth, and I called him one side and I said——

Mr. FEENEY. Wait a minute. Now, I object.

Notary BERMAN. Note Mr. Feeney's objection.

Mr. O'CONNELL. Go ahead.

Mr. FEENEY. You admit the testimony?

The WITNESS. "I have just left there, John, for my own safety. Fitzgerald was in a rage there. He has threatened me, and for that reason I left there and came down to you to tell you that I can no longer work in that particular precinct."

I then sat on a settee in this precinct on Blossom Street, and I watched the proceedings there, and I got up to Mr. Gibbons and I said, "What are you calling names out for?" He said, "I am challenging." I said, "What is this short gentleman in there—inside the rail, saying to these men?" And he said, "He is noting the challenge." I then went over and I sat down again, and Mr. Gibbons said, "Well, you have got it pretty soft," and I didn't do anything only smile. A few minutes after, I seen—I heard a policeman instructing Mr. Gibbons that he must leave the precinct ward room.

Q. Was that because of any warning or request of the warden to the policeman?—A. The stout gentleman behind the rail instructed the officer, but the direct order for his leaving came from the officer.

Q. Then what took place?—A. So, then we got out on the street, and there were four or five or more of the same people that were in that precinct in the basement who came out on the street.

Q. Well, you did not tell us—about how many people were in and around the booth at the time the warden told the policeman to have Mr. Gibbons leave?—A. Inside or outside?

Q. Inside.—A. There must have been eight or nine, including myself.

Q. What was their attitude toward Mr. Gibbons?—A. Well, I do not know their attitude.

Mr. FEENEY. Well, now, stop, please.

Q. What did you notice about them?—A. I noticed they were performing their duties, and they seemed to know everybody who came in to vote.

Q. In reference to Mr. Gibbons, what was their language?—A. Well, the incident, as it took place, was that Mr. Gibbons was objected to because he spoke to me, and the two other gentlemen also went out that entered the wordy argument with Mr. Gibbons in the room there. Mr. Gibbons and myself left. He went out on the street, and went to—walked up to the——

Q. Now, after Mr. Gibbons left the booth, did these fellows, these men that were inside the booth, come out?—A. Yes; I said that.

Q. What did they do when they came out?—A. They just stood around the door, on the outside of the sidewalk.

Q. Now, did Mr. Gibbons go away then?—A. Yes; accompanied by Sergeant Lewis.

Mr. FEENEY. Sergeant who?

The WITNESS. Lewis.

Q. How far did he accompany you away from the booth?—A. Up as far as Tremont Row and Tremont Street, to Epstein's drug store.

Q. Now, have you described what these men were doing inside the booth, before they left to come out?—A. They were—some had books. They were checking. If a voter came in, they apparently knew him, and they spoke to him.

Q. Now, coming back to John I. Fitzgerald, who was near you, how near the booth were you when he made his threat to you?—A. I was on the sidewalk, just alongside the building, to the main entrance.

Q. Going into the booth?—A. Yes, sir.

Q. And this was 10 minutes before the polls opened?—A. Yes.

Mr. FEENEY. Will you give me that booth?

Q. Blossom Street, you said?—A. No; that was the ward room.

Mr. FEENEY. Ward room?

Mr. O'CONNELL. I think you may inquire.

Cross-examination by Mr. FEENEY:

Q. So as to get it on the record, your full name is what?—A. Thomas H. Glynn.

Q. Thomas H. Glynn?—A. Yes.

Q. And you live where?—A. 9 Helen Street, Dorchester.

Q. That is in what ward?—A. That is in Ward 19.

Q. And did you vote in that ward that day?—A. No, sir.

Q. Now, did you give to ex-Congressman O'Connell the full and proper reason why you went down to Ward 5?—A. I did.

Q. And that reason was because there was a Dorchester candidate running for Congress in that district?—A. Friendliness existing between Mr. Gibbons and Mr. Tague.

Q. And friendliness existing between Mr. Gibbons and yourself?—A. And Mr. Tague.

Q. And Mr. Tague and yourself?—A. Inclusive.

Q. And yourself?—A. Yes.

Q. Did you go down there at the request of Mr. Gibbons or of Mr. Tague?—A. At the request of Mr. Gibbons.

Q. At the request of Mr. Gibbons. So that when you said that you went down there because there was a Dorchester candidate running, you merely intended to be a little bit funny or facetious, did you not? Yes or no, please. You intend to be a little bit funny, did you not?—A. No.

Q. Now, what time did you vote in your own ward upon that day?—A. At 10 minutes of 3 in the afternoon.

Q. You are a cotton broker?—A. Yes.

Q. Working for whom?—A. For myself.

Q. For how long a time have you been working for yourself, as a cotton broker?—A. 14 years.

Q. You had a place of business at the time, on election day?—A. I did.

Q. And your place of business was located where?—A. 23 Medford Street, Boston.

Q. And you had an office there?—A. Yes.

Q. Now, on that day were you in your office at 23 Medford Street?—A. No, sir.

Q. Are you associated with anybody at your office at 23 Medford Street?—A. In what way?

Q. In any capacity?—A. Yes.

Q. You have employees there?—A. Yes.

Q. And you have—there are other tenants in that place?—A. No.

Q. You are the sole tenant at 23 Medford Street, Boston?—A. Yes.

Q. And 23 Medford Street, Boston, is located where?—A. Down near the North Station.

Q. And that is in this congressional district, is it not?—A. I am not familiar with the boundary lines. I couldn't say yes or no to that.

Q. You are not familiar with the boundary lines and don't know that your own office is located in what is now Congressman Tague's district. Is that right?—A. I do not know the boundary line.

Q. You have had that office for a number of years, have you not?—A. I have.

Q. And you have been paying rent for that office for a number of years, have you not?—A. I have.

Q. And to whom do you pay rent?—A. Mr. Butler.

Q. His full name is what?—A. Thomas Butler.

Q. Is Thomas Butler engaged in the horse business?—A. No.

Q. Grain business?—A. No.

Q. And Thomas Butler is your landlord?—A. Yes.

Q. The man to whom you have been paying rent for the past 14 years? A. Yes.

Q. And do you mean to tell me you do not know whether or not that office is located within this congressional district or not?—A. I still say I do not know whether it is located—

Q. How much of your time have you put in at 23 Medford Street for the past six months?—A. Daily, weekly, or monthly?

Q. Daily.—A. One hour a day.

Q. One hour a day; and you have been there each day at least one hour for the past six months, have you?—A. More or less.

Q. Well, you have been there every day? I mean by that, dealing fairly with you, every working day for the past six months, have you, at least one hour, more or less?—A. Aggregatively, yes.

Q. What?—A. Aggregatively, yes.

Q. Do you mean by that that you would be there at least three or four times a week?—A. Yes.

Q. Yes. Now, then, you did not go down into this ward room or into this booth upon that day, because your office happened to be in that congressional district, did you?—A. I did not go to my office.

Q. I will put the question again.—A. Put the question again.

Q. I will put the question again. You did not go down into that district and into that booth and ward room that day, because your business place happened to be in Congressman Tague's congressional district, did you?—A. Why, no.

Q. No. And the only reason you went there was because you were requested to go there by Mr. Gibbons. Is that right?—A. Yes.

Q. And you were not requested to go there by Mr. Tague?—A. No.

Q. And you did not go there as a paid employee of either?—A. No, sir.

Q. And you have not been paid by either of them for your presence or your work there at that time?—A. No, sir.

Q. You are not summoned here as a witness to-day?—A. I am summoned, a copy of which I hold. Otherwise I wouldn't be here.

Q. That is, you were unwilling to come here as a voluntary witness to tell your story?—A. My time is valuable.

Q. Pardon me. Were you unwilling to come here as a voluntary witness to tell of your observations of that day?

Mr. O'CONNELL. I do know whether it is at all material.

Mr. FEENEY. I insist on the question.

The WITNESS. I answered the—

Q. Pardon me, pardon me. Were you unwilling to come here as a voluntary witness to tell this commission what you observed happened there on primary or election day?—A. Yes.

Q. You were unwilling to do so?—A. Yes.

Q. Why?—A. Because it was never even asked of me.

Q. What?—A. It was never even requested of me to volunteer.

Q. Is that the only reason?—A. Because I wouldn't know there was a hearing here if I didn't receive the summons.

Q. Is that the only reason?—A. Because I obeyed the law, obeying the summons.

Q. Is that the only reason?—A. Because I felt as though I was compelled to come here.

Q. Is that the only reason?—A. The essential reason, yes, sir.

Q. Is there any other reason?—A. No.

Q. Is the fact that you have been busy, very busy, lately, any reason why you would refuse to come as a volunteer witness to tell what you saw there upon the day in question?—A. If I was busy, I wouldn't be here as a volunteer.

Q. What?—A. If I was busy, I wouldn't be here as a volunteer.

Q. Were you busy as—A. Always busy.

Q. Always busy? Always busy as a broker?—A. Yes.

Q. As an independent wool broker?—A. Cotton.

Q. Cotton broker?

Mr. O'CONNELL. A big distinction.

Q. And so that when you were summoned here, that was the first information you had that you were expected to come here and to testify?—A. Yes.

Q. Yes, sir. Now, then, have you told this commission now fairly, and fully, as you now recall it, your observations at the booth and at the wardroom upon that day?—A. As per questions asked of me; yes.

Q. Yes; now will you let me see the summons, please?—A. [Witness hands summons to counsel.]

Q. Do you recall who served the summons upon you?—A. No.

Q. John H. Backus, deputy United States marshal served it upon you. Where did he serve it upon you?—A. At the designated address, 9 Helen Street.

Q. When?—A. Let me read it.

Q. That won't tell you where it was served at, unless it is on the back.

Mr. O'CONNELL. You can look at it if you want to.

Mr. FEENEY. Yes; you can look at it; but I am telling you it won't help you.

Mr. O'CONNELL. Why not?

Mr. FEENEY. Because there are so many reasons why not; don't waste your time trying to tell him. He probably knows; but you don't.

Mr. O'CONNELL. You wouldn't object to helping him?

Q. Do you recall, as a matter of memory, now, when this was served upon you?—A. No.

Q. Now, Mr. Witness, don't let my friend here disturb you; but do you recall when that summons was served upon you?—A. [Witness examines summons.] It wasn't served upon me personally.

Q. When did you first get the summons yourself?—A. When it was handed to me by my sister.

Q. When?—A. The day after it was served.

Q. When was that?—A. The day—24 hours after it left there.

Q. Now, let us see where we are. You are trying now to tell this board the recollections—the things which you remember as having happened down there in the polling booth some time last year, are you not?—A. I am.

Q. Now, then, in order to fairly test your memory and the value of your memory, I will ask you when did you get that summons handed to you—see how good your memory is?—A. The day or the hour?

Q. The day. See how good your memory is; sir.—A. The night of the 18th day of February.

Q. The night of the 18th day of February? The date of this subpoena is the 18th day of February, 1919. Is that right?—A. That is correct.

Q. Did you not tell this board that it was not handed to you, that it wasn't given to you except by your sister, and that that was 24 hours afterwards? Did you say that?—A. Yes.

Q. Is that correct?—A. It is correct.

Q. Then you did not get it on the 18th, did you?—A. Yes.

Q. You did not get it until 24 hours after the 18th, did you?—A. I got it 24 hours after it was served at the house.

Q. That was served at the house on the 18th, wasn't it?—A. I didn't get home that evening. Mr. Feeney—

Q. I did not ask you that. It is dated the 18th, isn't it?—A. Yes.

Q. It wasn't served before it was dated, was it?—A. That I don't know.

Q. What?—A. That I don't know.

Q. What day of the week did you get it?—A. If you will supply me a calendar, I will tell you.

Q. Well, you know the day of the week—you know what day to-day is, don't you?—A. Yes.

Q. What is to-day?—A. To-day is the 24th.

Q. To-day is what?—A. The 24th.

Q. Now, if to-day is the 24th, you can tell us when the 18th was, can't you?—A. Six days earlier.

Q. And can't you tell us the day of the week?—A. By figuring it up I could; yes.

Q. Will you do it?—A. Will you assist me?

Q. Will you do it?—A. Will you supply a calendar?

Q. Let me ask you this question. This subpoena requires your presence here at this court room on the 24th of February, does it not?—A. It does.

Q. Well, weren't you here last Friday?—A. I was.

Q. Weren't you here before any subpoena was ever—summons served upon you?—A. I was.

Q. Weren't you here before you were summoned to come and testify?—A. I was.

Q. Weren't you here at least two or three days before the date which is stated in this summons as the date when you were required to come here?—A. No.

Q. Well, you weren't required to come here by this summons until the 24th of February, were you?—A. That is true.

Q. You were here last Friday, were you not?—A. I was.

Q. So that you came here at least three days before the date when this summons required your attendance; is that right?—A. Two days; I will say, no.

Q. How many days did you come here before this summons required your presence here?—A. Yesterday was a holiday.

Q. One day, if it was a holiday?—A. Sunday.

Q. Sunday. Saturday was a holiday?—A. Yes.

Q. That is two?—A. Yes.

Q. Friday was the day you were here?—A. Yes.

Q. You were here three days before this subpoena required your attendance here?—A. To the answers, I will say three days.

Q. Three days?—A. Not two.

Q. Then, what did you mean by saying a few moments ago that you wouldn't come here voluntarily, that you wouldn't come here because you were busy, that you wouldn't come here because you wouldn't know there was any hearing, that you wouldn't come here until you got this paper served upon you. What did you mean by saying that?—A. My business calls me in this building every day.

Q. Is that the reason you came up here?—A. Yes.

Q. Then you came up here because of your own private business, on last Friday?—A. And to be a spectator.

Q. And to be a spectator at this hearing?—A. Yes.

Q. Before any subpoena was served upon you?—A. That right I thought I had.

Q. You had that, unquestionably.—A. I thank you.

Q. And that is the reason you came here?—A. Yes.

Q. So you weren't sincere, you weren't really honest and frank with me a moment ago when you said that if you did not get a subpoena, you wouldn't know that a hearing was being held? That is right, isn't it?—A. I answered that before.

Q. You were there on Wednesday and Thursday, weren't you, last week?—A. In the building, yes.

Q. You were present in the room when the hearing was going on on Wednesday and Thursday of last week, weren't you?—A. No.

Q. On either day?—A. No.

Q. You did not know there was a hearing?—A. Friday I was here.

Q. No, pardon me. You did not know there was a hearing going on relative to Mr. Tague and Mr. Fitzgerald's election on Wednesday and Thursday, when you were here in this Federal building?—A. No.

Q. You did not know there was such a hearing going on?—A. No.

Q. So it was Friday, knowing that there was a hearing going on, that you casually dropped in, as you had a right to, to listen to the hearing. Is that right?—A. That is correct.

Q. Now, then, on Friday how did you happen to know there was a hearing going on?—A. By the newspapers.

Q. What newspapers?—A. One of the daily newspapers.

Q. On Friday?—A. On Saturday morning.

Q. Friday? Stop; stop. Wait. I am going to be fair with this man. He is trying to do the best he can under pretty provoking circumstances. You do not mean Saturday's newspaper, do you?—A. I believe—

Q. You do not mean Saturday's newspaper, do you? Pardon me, you do not mean you came in here Friday because of what you saw in Saturday's newspaper, do you? Yes or no.—A. No.

Q. I thought you didn't. That was merely a mistake upon your part?—A. Yes.

Q. All right.—A. I apologize.

Q. Now, let us see. Upon this day—

Mr. O'CONNELL. I shall be glad to introduce the newspaper of Friday and Saturday.

Mr. FEENEY. Go ahead, if you want to.

Mr. O'CONNELL. All right, I will.

Mr. FEENEY. Go ahead, if you want to.

Mr. O'CONNELL. Thank you. That is rather a fair retort.

Mr. FEENEY. Go ahead, and put that in the evidence, if you want to.

Notary BERMAN. Proceed.

Mr. FEENEY. Now, let Congressman O'Connell conduct this hearing, Mr. Notary Public.

Notary BERMAN. The witness is here. You proceed.

Mr. FEENEY. The Congressman wants to do something. He don't know what it is.

Mr. O'CONNELL. You are wasting a lot of time.

Mr. FEENEY. He won't do it, if Arthur Harrington has his way.

Q. It is true, Mr. Glynn, isn't it, now, that you came in here on Friday because of what you saw in a newspaper either upon Friday or some preceding day? That is right, isn't it?—A. Will you ask me the question again, please?

Q. That you came here Friday because of what you had read in the newspaper on Friday or because you had read in the newspaper that there was a hearing here on some preceding day?—A. The reason I came here was——

Q. No, no. I am asking you now if you came here upon Friday because you read something in the newspaper on Friday or Thursday or Wednesday?—A. I believe, to the best of my memory, I read it in Friday morning's Post.

Q. Friday morning's Post?—A. I think so.

Q. Now, you believe you read it in Friday morning's Post?—A. Yes.

Q. And up to that time you did not know a hearing was being conducted here in the Federal building relative to the election of Mr. Fitzgerald for Congress?—A. Until I received my summons.

Q. Until you received your summons? You received your summons on Saturday, didn't you?—A. Friday night between 5 minutes of 12 and 10 minutes past 12.

Q. Friday, between some time Friday night or early Saturday morning?—A. Yes.

Q. Your sister handed you this subpoena?—A. She did not hand it to me. At that hour she is in bed.

Q. I thought you said it was handed to you by your sister?—A. Laid with the rest of my papers on my desk.

Q. Oh, so what happened was, then, you found it upon your desk?—A. Yes.

Q. Either Friday night or Saturday morning after you had been in this building at this hearing?—A. Yes, sir.

Q. That is true, is it?—A. That is true.

Q. Now, then, do you recall the day of the month when you went—when election day took place?—A. The date?

Q. Yes.—A. No.

Q. Well, you went down to this booth on election morning, at the request of Mr. Gibbons, did you?—A. Yes.

Q. And for the reason——A. That is all.

Q. That is all? Because Mr. Gibbons asked you to go down there?—A. Yes.

Q. And you went down there without expecting any compensation from Mr. Gibbons or from anybody else?—A. That is right.

Q. That is right, isn't it?—A. Yes, sir.

Q. Now, what time did you get down to this booth upon that morning?—A. 5.50.

Q. And you remained there in the booth, how long?—A. Did not have a chance to get into the booth.

Q. You remained at the booth how long?—A. About 40 minutes.

Q. Until about half past 6? At half past 6 you left there and went to the ward room?—A. Yes.

Q. Is that right?—A. Around that.

Q. And you stayed at the ward room about how long?—A. Pretty near an hour.

Q. So you left the ward room about half past 7?—A. You are in the ward room.

Q. What?—A. You have mentioned the ward room. I had left the ward room.

Q. You left the ward room about half past 7, didn't you?—A. Yes.

Q. Now, from there you went up to the corner of Tremont Street and Tremont Row?—A. No.

Q. Where did you go after you left the ward room?—A. I have already testified to that.

Q. Where did you go to?—A. To Blossom Street.

Q. Where did you go to first? Where was the booth you went to first?—A. The wardroom.

Q. At the wardroom?—A. Yes.

Q. You went there at 10 minutes of 6, didn't you?—A. Yes.

Q. You stayed there until half past 6, didn't you?—A. Half past 7.

Q. You stayed there about half an hour, didn't you—30 or 40 minutes?—A. Yes; 6.30.

Q. Which is it?—A. 6.30.

Q. You said 7.30, didn't you?—A. No, sir.

Q. You didn't say a moment ago that you left the wardroom at half past 7? Do you mean that?—A. I said I left at 6.30.

Q. Do you mean to say you didn't say a moment ago that you left the wardroom at half past 7? Yes or no?

Mr. O'CONNELL (to Mr. Feeney). Will you please move back?

Q. Did you say that?—A. 6.30 I left the wardroom.

Q. Did you say you left that wardroom at half past 7? Now, answer my question.—A. Did I say I left the wardroom at half past 7? No.

Q. All right. You didn't say that. But you did leave the ward room at half past 6?—A. I did.

Q. Half past 6 you went to Blossom Street?—A. Yes.

Q. And you remained at Blossom Street how long?—A. Oh, about over two hours.

Q. You left Blossom Street about half past 8. Is that right?—A. Around 9 o'clock.

Q. Now, are you sure about that? You are sure you left the booth and went away about half past 8?—A. The hour I am not sure of.

Q. Well, it is about that time?—A. On or about that time.

Q. Now, did you go back again that day?—A. No.

Q. Now, haven't you got this thing all confused? Isn't it true that the ward room—isn't it true that the ward room is on Blossom Street?—A. No.

Q. Pardon me. Do you mean to tell this board that the ward room isn't on Blossom Street?—A. It is the ward room I am speaking about, where I went first. I do not think it is on Blossom Street.

Q. You do not think it is on Blossom Street? You were down there that morning; now, surely, weren't you?—A. Positively.

Q. Between 10 minutes of 6 and half past 8?—A. Yes.

Q. You were down there?—A. Yes.

Q. Now, during that time, did anybody strike you?—A. Strike me?

Q. Well, you heard my question.—A. Struck—they struck me forcibly by their language, yes.

Q. And I suppose they hurt you forcibly by their language, too. Is that the only way you were struck during those few hours?—A. That was the most effective way.

Q. Is that the only way you were struck during those two hours, by their language?—A. Yes.

Q. What?—A. Yes.

Q. Your answer is "Yes." So that when Mr. Fitzgerald—who you say made threats against you—acted in the way so that you thought you were being threatened, all he did was talk to you?—A. His mode of conversation was a little bit different than usual.

Q. Can you tell me anybody else you talked with, except Mr. Fitzgerald, at the ward room, as you term it?—A. Nobody else.

Q. Nobody else but Senator Fitzgerald? Now, did anybody else talk to you at the second place you went to, which you term the booth, on Blossom Street, except the police officer who ordered you out?—A. And Mr. Gibbons.

Q. And your own friend, Mr. Gibbons? Mr. Gibbons is your own friend, isn't he?—A. Yes.

Q. He is the man who requested you to come down there, and he is the man who told you you were having it pretty soft?—A. Yes.

Q. He thought you were having it pretty soft although you weren't getting anything for your work. Is that right?—A. Yes.

Q. Now, then, you have told us the only people who struck you with their language or who threatened you, haven't you?—A. Yes.

Q. Yes. Now, from 10 minutes of 6 to half past 6, it was during that period of time that you saw and talked with and listened to Senator John I. Fitzgerald, wasn't it?—A. Between 10 minutes of 6 and 6.30; yes.

Q. You did not see him again after that?—A. No.

Q. That is the only time you saw him during that day?—A. Yes.

Q. And he is the only man down there who spoke to you, whose name you can give me?—A. Yes.

Q. And he is the only man who spoke to you in a threatening way upon that day down there, isn't he?—A. Yes.

Q. And along, then, at somewhere around half past 8 a couple of officers came and told you to get out of the booth?—A. You are at another booth now, Mr. Feeney.

Q. At another booth I am speaking of?—A. Yes.

Q. You weren't a voter down there?—A. No.

Q. You had no business in the booth?—A. That of an American citizen; yes.

Q. You had the business of an American citizen in that booth?—A. In any booth.

Q. In any booth. How long were you in there acting as an American citizen before you were ordered out by the officer? About two hours?—A. I wasn't ordered out.

Q. About two hours?—A. I wasn't ordered out.

Q. You were there about two hours, were you?—A. I should say so.

Q. Seated in that booth?—A. Yes.

Q. Not in your own congressional district?—A. True.

Q. When a police officer ordered Mr. Gibbons out?—A. Yes.

Q. But you weren't ordered out?—A. No.

Q. You voluntarily left there?—A. Yes.

Q. For aught you say you might have remained there as an American citizen all day. Is that right?—A. In that particular booth?

Q. In that particular booth. From there you went out with your friend Gibbons and went up as far as Epstein's drug store, and then you went about your business to your own district. Is that right?—A. No.

Q. Where did you go after that?—A. I went to dinner; went to have something to eat.

Q. You went to dinner.—A. You understand I didn't vote until 10 minutes of 3.

Q. You did not vote in your own district until 10 minutes of 3 in the afternoon?—A. Yes.

Q. Now, you have told us pretty fairly about the happenings down in this district?—A. Yes.

Q. Between 10 minutes of 6 and half past 8, which was the last time that day that you were in that congressional district. That is right, isn't it?—A. That is right.

Q. Do I understand you to say, now, you weren't present at any hearing conducted here by this notary prior to last Friday? Do I understand you now to say that you weren't present at a room in this building when a hearing was being conducted before this notary relative to the election of Mr. Fitzgerald, prior to last Friday? I want you to answer that question. By "prior" I mean before last Friday?—A. Before last Friday?

Q. Yes, sir.—A. At the hearing, yes, sir.

Q. At the hearing?—A. I wasn't at the hearing before last Friday.

Q. Were you here at the time when the hearing was not being conducted, but when you expected one would be conducted?—A. I was.

Q. When was that?—A. That was on Thursday.

Q. Were you here before Thursday at a time when the hearing was not being conducted, but when you expected the hearing was about to be conducted?—A. No.

Q. Thursday was the first time that you made your appearance?—A. Yes.

Q. That was two days that you were here before you were summoned?—A. One day.

Q. One day. You were here Thursday without a summons, and you were here Friday without a summons. Is that right?—A. Yes.

Q. You were here Thursday in consultation with Mr. Tague?—A. No consultation.

Q. Talking with Mr. Tague?—A. I talked with Mr. Callahan, too.

Q. You were here talking with counsel for Mr. Tague, were you not?—A. And others.

Q. And by counsel with Mr. Tague you mean Mr. Goodwin here and also Mr. Harrington? You were talking with them, were you not?—A. And I would like to say with Mr. O'Connell—

Q. You were talking with those two lawyers?

Mr. O'CONNELL. They are real lawyers, too.

Mr. FEENEY. They are real lawyers, and I am glad you admit it.

A. I talked with two or three at that time of these lawyers here.

Q. Did you talk with those two men last Thursday and Friday?—A. Yes.

Q. And so you did not expect at any time that you would be a witness here, until about 12 o'clock Friday night, or 10 minutes past 12 on Saturday morning, when you found among your letters and papers at home this subpoena which you have referred to here. That is right, isn't it?—A. Yes, sir.

Q. On Friday you were here how long?—A. Oh, perhaps an hour.

Q. Are you sure it was 12 o'clock on Friday night, or about 12 o'clock on Friday night, that you first expected to be a witness?—A. I did not expect to. I had my summons to be one.

Q. That was the first time that you had any expectation of being a witness here?—A. No notification.

Q. How about expectations?—A. Expectations don't enter into it.

Q. Answer my question.—A. Expectations don't enter into it.

Q. Did you expect to be a witness before that time?—A. No.

Q. Don't you know that while you were here on Friday—and didn't you know that counsel here, Mr. O'Connell, wanted to have you go on the witness stand on Friday, and objection was made because counsel for Mr. Fitzgerald had not been notified that you were going to be a witness? Didn't you know that?

Mr. O'CONNELL. Just a minute.

Mr. FEENEY. Pardon me.

Mr. O'CONNELL. Pardon me.

Mr. FEENEY. Pardon me, pardon me, pardon me. Will you answer the question, please?

Mr. O'CONNELL. Please——

Mr. FEENEY. Please what?

Mr. O'CONNELL. I was going to say——

Mr. FEENEY. Pardon me. I would like to have the witness answer my question without any help from you. I know your game.

Mr. O'CONNELL. I resent that.

Mr. FEENEY. I don't care what you resent. I am not picking any fuss with you.

Q. Didn't you on Friday know that counsel had offered you as a witness and objection had been made because counsel for Mr. Fitzgerald had not been notified that you would be called as a witness?

Notary BERMAN. Now wait. What is your objection, Mr. O'Connell?

Mr. O'CONNELL. The absence of Mr. Feeney last Friday has got him confused a great deal——

Mr. FEENEY. May I have an answer to my question, Mr. Notary?

Mr. O'CONNELL. ——confused into making misleading statements, misleading for himself and consuming a tremendous amount of time, because of the misleading view of the case that he has got. Now I can state——

Mr. FEENEY. Will you have my question admitted or ruled out?

Notary BERMAN. I have to take Mr. O'Connell's objection before I can rule on it.

Mr. FEENEY. Is he making an objection?

Mr. O'CONNELL. I can not, while you interrupt me.

Mr. FEENEY. Won't you state the objection, such as you want to have passed upon?

Mr. O'CONNELL. I was going to say, your Honor, that Mr. Feeney might save his time and ours if he would find out what the exact facts were in reference to last Friday. That he is misleading and misrepresenting the situation in the question that he is framing for the witness, and he is undoubtedly doing it unintentionally. He is a good cross-examiner, but what is the need of wasting his time and our time? He is wasting it on false premises. If Mr. Feeney will permit me, I did not attempt to put Mr. Glynn on the stand last Friday, and that is misinformation, wherever it came from.

Mr. FEENEY. Now, if you are all through, will you sit down?

Notary BERMAN. The witness may answer the question.

Q. Now, will you answer the question?—A. When my name was called last Friday I said, "I have no summons."

Q. So that Mr. Feeney was not so far wrong, but Brother O'Connell was present when your name was called and you said that you did not have a summons. That is right, isn't it?

Mr. O'CONNELL. Now wait a minute. Don't get "Brother O'Connell" into that.

Mr. FEENEY. Brother O'Connell is in over his head now and he can't get out.

Mr. O'CONNELL. Brother O'Connell didn't call any persons as witnesses.

Q. Your name was called as a witness and you stood up and said you had no summons?—A. Yes.

Mr. O'CONNELL. No, no, no.

Mr. FEENEY. He says yes. Will the stenographer please put the witness's answer in there and not Brother O'Connell's?

Q. About what time of day were you called as a witness, when you said you did not have any summons?—A. I don't recollect.

Q. About when?—A. I don't remember.

Q. Can't you tell us about what time it was?—A. No.

Q. Is your memory bad on that, too?—A. My memory is very good.

Q. When was it that you were called as a witness and you said you had no summons?—A. During the time I was here as a spectator.

Q. Was that in the morning or the afternoon?—A. I don't know.

Q. Don't you know?—A. I can say it was in the afternoon.

Q. Who called on you when you said you had no summons?—A. Some one of the three counsel for Mr. Tague.

Q. And here are the three of them here. Now which one was it?—A. Mr. Harrington.

Q. Mr. Harrington who is sitting here side of Mr. O'Connell?

Mr. O'CONNELL. Back of me.

Mr. FEENEY. No; I said side of you.

Mr. O'CONNELL. Back of me.

Mr. FEENEY. He ought to be side of you and not back of you in this line of work.

Q. Do you remember what time of day it was when Mr. O'Connell called upon you, or Mr. Harrington?—A. Some time in the afternoon.

Mr. O'CONNELL. Just observe, Mr. Notary, the inaccuracy——

Mr. FEENEY. No; that is all.

Mr. O'CONNELL. That is all.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above, Nancy H. Harris, and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 129 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

THURSDAY, FEBRUARY 20, 10 A. M.

Mr. BROGNA. Have you the subpoenas that were served upon the witnesses appearing here this morning?

Mr. O'CONNELL. Yes. I think I will introduce these subpoenas with the officer's return upon them. Are you desirous how these subpoenas shall be marked or whether they will be put in or not?

Mr. CALLAHAN. I understand they have to be certified by the judge.

Mr. O'CONNELL. Then I offer them to you for certification.

Mr. CALLAHAN. I ask that each one of those be certified at the time the witness appears.

Mr. O'CONNELL. Then that is all very well.

Notary MANCOVITZ. Are the witnesses here. Jonathan Tomlinson, etc.?

Notary BERMAN. In order that there may be no misunderstanding, I am going to read the section of the Revised Statutes pertaining to the summoning of witnesses. In pursuance of section 116 of the Revised Statutes of the United States:

"Any person who, having been summoned in the manner above directed, refuses or neglects to attend and testify, unless prevented by sickness or un-

avoidable necessity, shall forfeit the sum of \$20, to be recovered, with costs of suit, by the party at whose instance the subpoena was issued, and for his use, by an action of debt, to any court of the United States; and shall also be liable to an indictment for a misdemeanor, and punishment by fine and imprisonment."

I make this statement now that the matter will be brought to the attention of the United States Attorney for such action as may be required by law.

Mr. O'CONNELL. Mr. Tague, will you take the stand? You may examine, Mr. Callahan.

Cross examination of Mr. Tague by Mr. CALLAHAN:

Q. Now, Mr. Tague, you have been a Member of Congress for 4 years?—A. I have.

Q. And you have been a member from this same district?—A. I have.

Q. And has this been the tenth district each year you have been there?—A. Yes.

Q. And it has been comprised of the same wards?—A. Yes.

Q. The first time you ran for Congress, Mr. Tague, you had the support of Mr. Lomasney?—A. I did.

Q. And in the primaries of that contest—the primaries of that contest were very hotly contested?—A. Yes.

Q. And by how many votes, Mr. Tague, were you elected?—A. I think about 600.

Q. About 600 votes?—A. Yes, I have not the exact figures in my mind.

Q. Mr. Lomasney at that time was supporting you for the nomination?—A. He did at the end of the contest.

Q. Well, at any rate, just before primary day and on the primary day, Mr. Lomasney and his Hendricks Club supported you, did they not?—A. Yes.

Q. And do you recall how many votes you received in ward 5 that year?—A. Ward 5 that year was in Charlestown.

Q. Then the districts have been changed since then?—A. The numbers of the wards have been changed. The district has been changed a little at the south end.

Q. So that ward 5, which was Mr. Lomasney's ward, was what ward at that time?—A. Ward 8.

Q. Ward 8, and also a part of wards 6 and 7?—A. No.

Q. Isn't ward 5 where Mr. Lomasney lives and votes what was formerly ward 8 and old ward 6 and old ward 7?—A. Yes.

Q. Well, now, I understand at that time Mr. Lomasney was in ward 8?—A. Yes, sir.

Q. And do you recall the number of votes you received at that primary?—A. Not accurately. No.

Q. Calling your attention to the report of the election board, in that contest, Mr. Kelliher who was your opponent was the principal opponent in that contest?—A. Yes.

Q. He received in that election 406 votes and you received 1,186. That is correct, isn't it?—A. I presume it is.

Q. Now, at that time, Mr. Tague, the support of Mr. Lomasney and his organization was given you voluntarily, wasn't it?—A. Yes.

Q. There was no inducement to get that support, was there?—A. None at all.

Q. And you paid nothing for that support?—A. No.

Q. And contributed nothing for it?—A. No.

Q. And as I understand now, in that primary election and in the election following it you contributed nothing for the support of Mr. Lomasney or the Hendricks Club, in either one of these contests?—A. That is so.

Q. Well, now, in the following election or primary you were also supported by Mr. Lomasney and his Hendricks Club?—A. I had no opposition at all.

Q. But before the primary you consulted Mr. Lomasney, I suppose?—A. I talked with him.

Q. And it was not an uncommon thing for you to go and consult Mr. Lomasney about election affairs in that district, was it?—A. No.

Q. And up until the primaries of this past year your association with Mr. Lomasney was a perfectly friendly one, wasn't it?—A. Well, some time previous to the—

Q. Some time prior?—A. Yes; up to the time I voted for war.

Q. What time do you fix that?—A. That was in April, 1917.

Q. April, 1917. Well, you testified yesterday that you had a talk with Mr. Lomasney shortly before the primaries?—A. I did.

Q. That was a friendly talk?—A. Well, it was in a way and it was not.

Q. Well, it started in a friendly way?—A. Apparently; yes.

Q. You went to see Mr. Lomasney?—A. Yes.

Q. Mr. Lomasney did not send for you?—A. Well, I am not so sure about that.

Q. Well, as a matter of fact, you went down to Mr. Lomasney's club or headquarters, didn't you?—A. Yes.

Q. And you went down for the purpose of asking for his support, didn't you?—A. Certainly.

Q. Well, now, in asking for Mr. Lomasney's support at that time, did you have in mind these things you charge at the present time, that there were floaters, illegal voters and illegal voting?—A. I had no occasion to find it out at that time.

Q. You had no knowledge of it at that time?—A. No.

Q. You know the conditions here, know the conditions of ward 5 have not differed in 6, 8, or 10 years?—A. I know what they are now, but I did not know then.

Q. You did not know then?—A. No.

Q. Didn't you know at the election in which you and Mr. Kelliher were engaged, Mr. Kelliher made charges of illegal voting at that contest?—A. Never heard of them at that contest.

Q. Did you hear of them after the contest?—A. No.

Q. Didn't you know Mr. Kelliher and some of his friends went and made a protest over illegal registration?—A. No.

Q. Are you sure you don't remember anything like that?—A. Positive.

Q. Will you say now it has been a matter of common knowledge, Mr. Tague, that there has been illegal registration or allegations of illegal—

Mr. O'CONNELL. Don't you want to admit it and get done with the hearing?

Mr. CALLAHAN. It is all right. I am not admitting it.

Q. Was it a matter of common knowledge there were allegations of illegality in your first contest?—A. The allegation was made in years gone by, but there was none made in that contest, so far as I know.

Q. You were perfectly willing and anxious to get the support of Mr. Lomasney?—A. Certainly.

Q. You went to him and asked for his support?—A. Yes.

Q. And you were willing to accept his support?—A. I would accept his support.

Q. And you would accept his support now?—A. Absolutely not. I never associate with a man that double crosses me.

Mr. CALLAHAN. Now, I move that be stricken out. It is not responsive.

Notary BERMAN. I think that may stand, subject to your objection, Mr. Callahan.

Q. Now, Mr. Tague, you live where?—A. No. 21 Monument Square, Charlestown.

Q. Now, Mr. Tague, I would like to go over the primary vote on your primary contest, and I suppose I may offer this in evidence if I read this.

Mr. O'CONNELL. I beg pardon.

Mr. CALLAHAN. I understand you will consent to the correctness of that.

Mr. O'CONNELL. What is it, Mr. Callahan?

Mr. CALLAHAN. This is an official report of the election.

Mr. O'CONNELL. Anything you read from an official report—

Q. For this my thanks. In ward 1 Mr. Brennan received 901 and Mr. Tague 905 votes. In ward—

The WITNESS. How many did Neylon get? Read it all.

Mr. CALLAHAN. If you want me to read it all—

The WITNESS. Certainly.

Q. All right; I will read it all. In ward 1 Mr. Brennan received 905. Mr. Kelliher 903, Neylon 425, and Mr. Tague received 905 votes. In ward 2 Mr. Brennan received 104, John A. Kelliher 821, Thomas A. Neylon 107, and Peter F. Tague 795. In ward 3 James H. Brennan received 359, John A. Kelliher received 430, Thomas A. Neylon 407, and Mr. Tague received 1,168. In ward 4 Mr. Brennan received 407, Mr. Kelliher 418, Mr. Neylon 424, and Mr. Tague 527. In ward 5, Brennan 580, Kelliher 360, Neylon 7, and Mr. Tague 495. Ward 6, Mr. Brennan received 41, Kelliher 739, Neylon 7, and Mr. Tague 343. Ward 7, Mr. Brennan received 39, Mr. Kelliher 427, Mr. Neylon 5, and Mr. Tague 232. In ward 8 Mr. Brennan received 77, Mr. Kelliher received 406, Mr. Neylon received 16, and Mr. Tague received 1,108. In ward 9 Mr. Brennan received 87,

Mr. Kelliher 1,013, Mr. Neylon 19, Mr. Tague 497. In ward 11, precincts 1 and 2, Mr. Brennan received 12, Mr. John A. Kelliher received 57, Mr. Neylon received 1, and Mr. Tague received 54, making a total for James H. Brennan 1,851, John A. Kelliher 5,574, for Thomas A. Neylon 618, and for Peter F. Tague 6,184. Now, Mr. Tague, that leaves your plurality in ward 8, which was Mr. Lomasney's ward, 702 votes, and your plurality in the district was something like 600 votes you say?—A. I don't quite remember the exact figures.

Q. The exact figures are 510—610 votes.

Mr. O'CONNELL. Six hundred and ten; is that right?

Mr. MANCOVITZ. That is, including ward 8.

Q. So cutting out Lomasney's ward, Mr. Tague, you were a defeated candidate. Is that so?—A. According to those figures.

Q. And without his support you could not have won?—A. I am not so sure about that.

Q. Aren't you absolutely positive of that?—A. No.

Q. Aren't these figures correct?—A. Sometimes it is according to who puts them down.

Q. Didn't you testify yesterday Mr. Lomasney could deliver his ward to anybody he chooses?—A. Anybody knows that.

Q. Isn't it true that he gave it to you and that if you had not had his support you could not have won?—A. No; I might have received other votes in other districts if I had not had it. There were a great many people that voted against me because I had Lomasney's support.

Q. But notwithstanding that, although that was in your mind, you went and asked for his support again?—A. Certainly.

Q. You live in Charlestown?—A. Yes.

Q. Where in Charlestown do you live?—A. No. 21 Monument Square.

Q. Who lives with you?—A. My wife and children.

Q. Anybody else?—A. Not at present.

Q. At the time of the last election.—A. Capt. Goggin.

Q. Capt. Goggin?—A. He had a room there, though not at the time of the election.

Q. At the time of the primary?—A. No.

Q. He was a registered voter there?—A. Yes; he was a registered voter the last five years.

Q. The last one?—A. But he never voted from there. Never voted from my house.

Q. Did he use his right to vote from your house?—A. Never.

Q. Are you sure of that?—A. Positive.

Q. Will you state, please, what Capt. Goggin's full name is?—A. Capt. Patrick Goggin. Patrick H., I think.

Q. Is he a city employee?—A. Captain of the fire department.

Q. Do you know what engine or ladder company he is attached to?—A. I don't know just now.

Q. Do you know whether he is married?—A. I think so.

Q. Do you know whether he lives with his family?—A. I don't know.

Q. Did he live, actually live, in this room in your house?—A. He did when he was registered. Yes.

Q. And he was registered four years?—A. Yes.

Q. Did he live there four years?—A. Off and on, yes. Whenever he wanted to.

Q. For the purpose of the record, Mr. Tague, will you tell us what four years they were?—A. The last four years.

Q. The last four years?—A. Maybe five years. I won't say definitely.

Q. Do you know—He lived there alone, did he, Mr. Tague?—A. Yes.

Q. Do you know whether he has any children?—A. Don't know anything about it.

Q. You know that he has a wife?—A. I presume he has one. I don't know anything about it.

Q. Did his wife ever live there, Mr. Tague?—A. No.

Q. Now, at the time of the recount of the primaries in the city hall, Mr. Tague, were they conducted any differently than they were after the election? That is to say, the manner, not what the personal attitude of anybody was, but the manner of the counting, the regulation of the counting, was it any different at that time than it was after the election?—A. You mean, on the—

Q. I mean on the recount.—A. On the recount of the primaries there was confusion all day long.

Q. You say there was confusion, but let us see whether there was or not. Do I understand the ballots were brought up into the room of the election commissioners?—A. Yes.

Q. And they had a table for each precinct?—A. Yes.

Q. And they had two counters for each table?—A. I don't know. Not when it started.

Q. Did the election commission?—A. I think so.

Q. But the election commission had two counters at each table?—A. I think so.

Q. Are these men sworn before they count the ballots?—A. I don't know.

Q. But you do know, at each table there is one Democrat and one Republican?—A. I know there are two men.

Q. They are regular employees of the department.—A. I don't know that.

Q. As a matter of fact, Mr. Tague, you have had some experience in recounts and you know, don't you, that is the method they always pursue in the election commissioners' office?—A. They pursue a good many methods, but some of them are changed frequently.

Q. But when there is a recount of several wards, isn't that the way they always conduct their recounts?—A. I don't know.

Q. Did you ever attend a recount where it was necessary to examine the votes of several wards?—A. Yes. I have never heard the question of Democrat and Republican taken up.

Q. Don't you know the commission itself is composed of two Democrats and two Republicans?—A. Supposed to be.

Q. The statute requires that, doesn't it?—A. Yes.

Q. And they have got to be qualified Democrats and qualified Republicans?—A. That does not mean anything nowadays.

Q. Doesn't the statute require that?—A. I suppose it does. I will take your word for it.

Q. Don't you know?—A. No.

Q. Don't you know the members of the commission are equally balanced between the two dominating parties?—A. No; I don't.

Q. You don't know that?—A. No.

Q. Well, now, when these ballots are taken from the vault downstairs, they are brought into this big room, aren't they?—A. Yes.

Q. And these ballot boxes are sealed when they come there?—A. Yes.

Q. And these seals are broken only by the commissioners or the employees of the election department. Isn't that so?—A. I think so.

Q. And no ballots are handled by anybody but employees of that department?—A. I understand so.

Q. Don't you know that is so?—A. No; I have seen others handle ballots to count. In fact, thousands were opened during the recount of the primary that were handled by so many——

Q. As a matter of fact, you handled some of those ballots?—A. Certainly I did. That is what I am telling you.

Q. And your friends handled them?—A. Certainly they did.

Q. And there was no discrimination on the part of the employees between your friends and the other friends in handling these ballots?—A. I don't know as to that.

Q. You know perfectly well, Mr. Tague, you had a right to have watchers and examiners at each table?—A. Yes.

Q. And the election commission provided you with enough tickets of admittance so you could have two watchers?—A. But I had petitioned them to be counted at one table.

Q. They sent you tickets?—A. Yes; they sent tickets.

Q. So you could have two watchers at each table?—A. Yes.

Q. You don't want to blame anyone else because you did not?—A. I want to blame anybody that prevents me from having the ballots all counted at one table.

Q. The election commission gave you that right. Do you want to blame anybody but yourself——

Mr. O'CONNELL. Now, Mr. Callahan, have you finished?

Q. For not having watchers at that table?

Mr. O'CONNELL. I simply want to object to any misstatement of the law and the manner in which Mr. Callahan has quoted the law is not in accordance with my understanding of it.

Notary MANCOVITZ. You have a right to put the question.

Mr. CALLAHAN. I suppose you also have a right to produce the statute and prove I am wrong?

Mr. O'CONNELL. I have.

Mr. CALLAHAN. I would like to have you do so.

Mr. O'CONNELL. Suppose you go ahead and I will put it in in the right way.

Q. You don't want to blame anybody but yourself for not having them in the right way?—A. I had no intention of bringing watchers. I wanted the ballots counted as I requested.

Q. Did you ever see the ballots in a big contest counted as you requested?—A. Yes, sir.

Q. Where?—A. In an aldermanic contest, a few years ago.

Q. All over the city?—A. Five wards in the contest of John J. Mahoney for the board of aldermen.

Q. When was that?—A. I don't remember the date.

Q. How long ago?—A. Twelve years ago, fourteen years ago.

Mr. O'CONNELL. For your information, I will say that all recounts outside of Boston are counted as we requested this to be.

Mr. CALLAHAN. We are talking about Boston and the customs of Boston and I would like to confine it to that.

Mr. O'CONNELL. That is the trouble. It is a bad custom.

Mr. CALLAHAN. That can not be changed by us.

Q. Isn't it true at the election recount of ballots you received tickets enough to have watchers and inspectors there?—A. Yes.

Q. Didn't you have two watchers and inspectors at each table?—A. Yes, I did. No, not until after the recount had started.

Q. Isn't it true that recount was delayed to accommodate you?—A. Positively no. I entered an objection to the delay.

Q. I am talking about the election.—A. So was I.

Q. I was there myself.—A. So was I.

Q. Wasn't the election recount delayed on the morning of the 11th of November because you said there was a delay in the subway and your men could not get there?—A. No, I never made such a statement. That was the morning of the signing of the armistice and you asked the matter to be postponed until later on.

Q. But didn't you or your counsel ask to have the matter postponed and it was done for your convenience?—A. Not that I remember.

Q. The day we finally came to count the ballots, did you have all your watchers and inspectors there?

Mr. O'CONNELL. You are referring to the recount of the election?

Mr. CALLAHAN. The recount of the ballots of election day.

Q. That was the day the question came up about the recount at one table.

Q. Did you the day we finally came to count the ballots have all your watchers and inspectors there?—A. I think not.

Q. You know the law gives you a right to have watchers and inspectors there?—A. Yes.

Q. Do you want to blame anybody but yourself?

Mr. O'CONNELL. I want to say, Mr. Witness, you want to beware of misstatements of the law by Mr. Callahan. He may not intend it, but—

Mr. CALLAHAN. I would like to have you state it correctly.

Mr. O'CONNELL. You have it there in front of you and all you have to do is to read it.

Mr. CALLAHAN. I say that is a correct statement of it. We will produce the statutes and we will produce persons who can testify to them afterwards.

Q. Answer the question.—A. Repeat the question.

Q. Do you want to blame anybody but yourself for not having watchers and inspectors there on the recount of the election?—A. I do. On a count like that when an extraordinary election had taken place, when they should have been recounted so I could see every ballot.

Q. As a matter of fact, the ballots of each precinct of the ward. That is, they counted a ward at a time, didn't they?

Mr. O'CONNELL. No.

A. No.

Mr. CALLAHAN. Let us see. I will let the witness testify.

Mr. O'CONNELL. You and he are both wrong and you and he were both there.—A. They were counting six tables at a time, six different wards.

Q. Six different wards? Exactly. As I understand it, they took a precinct at a time, Mr. Tague?—A. Yes.

Q. So there were six tables. Didn't you have your watchers at all these tables?—A. I had after the beginning.

Q. And didn't the election commission decide with your consent and the consent of your counsel to take all ballots that were disputed by you or your counsel or by Mr. Fitzgerald into the office?

Mr. O'CONNELL. Just a moment.

Mr. CALLAHAN. Let him answer.

Mr. O'CONNELL. Before he answers, I object to any misstatements of fact by Mr. Callahan. I certainly object as to the way he asks whether I consented or not because he knows that is what I objected to.

Notary MANCOVITZ. The witness may testify.

Mr. CALLAHAN. I don't know what your consent amounts to. That is what was done.

Mr. O'CONNELL. It was done over my protest. Certainly I would not assent.

Q. As a matter of fact, Mr. Tague, isn't that what actually happened?—

A. The ballots were brought into the room.

Q. Every ballot that was questioned by your watchers and inspectors was brought into the room?

Mr. O'CONNELL. So far as he can tell. He was in the room.

A. It would be impossible for me to tell what six tables were doing.

Q. Isn't it a fact, your watchers were instructed that every ballot they considered objectionable be brought into the room? Didn't they receive that instruction?

Mr. O'CONNELL. How does he know?

A. Not any information in the matter. In fact, in wards 6 and 8 a recount after they were sent out showed they did not.

Q. As a matter of fact, whether your counsel instructed them or not, it is true about 1,300 ballots were brought from the tables where the counters were into the room where the election commissioners were and your counsel and counsel for Mr. Fitzgerald?—A. Yes.

Q. And those ballots were considered doubtful ballots?—A. Yes.

Q. Is it not true, as a matter of fact, that most of these ballots were sent in by your watchers and inspectors?—A. I could not answer that.

Question. You don't know that. Early in the day wasn't it decided these ballots should be gone over singly if there was doubt and counsel could be heard on all these ballots?—A. I was not in the room when that was made.

Q. Weren't you in the room most of the day?—A. A good deal of the day.

Q. There was not a time during the day when you were not?

Mr. O'CONNELL. In order that the record may be kept clear, what room do you mean? The recount went on in the big room and the commissioners sat in a smaller room.

Q. Is there any confusion in your mind, Mr. Witness, as to what room I mean? Is there?—A. No.

Mr. CALLAHAN. The confusion is in my brother's mind.

Mr. O'CONNELL. What room do you mean, in order that the record may be clear?

Mr. CALLAHAN. I mean the room—and you know perfectly well what room I mean; the room off the big room where the election commissioners are and where you were most of the day.

Mr. O'CONNELL. Which one of the three rooms? There are four rooms. Which one do you mean?

Mr. CALLAHAN. Are you trying to clear up or trying to muddy the record?

Mr. O'CONNELL. I am trying to show you how muddy the record may be if it is left as you want it.

Notary BERMAN. Let me suggest you call one room the commissioners' room and the other the recount room.

Mr. CALLAHAN. There is no confusion in the witness's mind.

Q. Don't you know that the room where the election commissioners' desks are, their own desks, that was the room where the ballots were taken?—A. I know the ballots were taken into the second inside room.

Q. Where the desks of the election commissioners are?—A. I don't know about their desks. There is an inside room still.

Q. Don't you know that is their own private office?—A. No; I don't.

Notary BERMAN. Let me suggest for the purpose of keeping it clear that you call the smaller room the executive room and the big room call the recount room.

Q. We will call the smaller room the executive room and the big room the recount room.—A. If you mean the room where they have executive, star-chamber meetings, that is in farther.

Q. You know the room I mean. I was there, your counsel was there, and Mr. Harrington was there.

Mr. O'CONNELL. And Mr. Fitzgerald's lawyers were there.

Mr. CALLAHAN. Don't you begin to confuse him.

Mr. O'CONNELL. I don't want to, Mr. Callahan.

Mr. CALLAHAN. You are not going to.

Mr. O'CONNELL. I assure you I have no intention of it.

Mr. CALLAHAN. You can not confuse him, because I am going to get my questions in and my answers.

Mr. O'CONNELL. I hope you will not try to confuse him.

Q. As a result of this confusion—you know the room where these ballots were taken?—A. The second inside room; yes.

Q. And you know perfectly well, before any one of these disputed ballots were counted, we agreed, you and your counsel and counsel for Mr. Fitzgerald and all the newspapermen permitted to examine these ballots there?—A. I was not in the room when that agreement was made but I saw them there.

Q. Newspaper men, too?—A. Yes.

Q. And the newspaper men, together with counsel, observed all the ballots?

Mr. O'CONNELL. All what ballots?

Mr. CALLAHAN. Your answer is, yes, Mr. Tague?

A. Some of the ballots were taken into the inside room.

Q. At any rate, there was no attempt by anybody to prevent the widest publicity to them?—A. That is not so. Mr. Finnegan objected to us having a recount in wards 5 and 6.

Q. I was not asking about that.—A. You are talking about publicity. That is publicity.

Q. What you refer to was something that occurred at the tables?—A. No; I am talking about something that happened in the inside room when Mr. Finnegan left the room and refused to take part in the recount.

Q. These ballots were not in the room?—A. They were brought in.

Q. But they were not in the room at the time?—A. They were the ballots in question.

Q. But isn't it true that you had three recounts?—A. No.

Q. You had two?—A. I had a recount after Mr. Finnegan refused to sit with the board after the decision was given.

Q. You had a recount and you protested, or your counsel protested, and there was a recount of the recount, wasn't there?—A. Yes.

Q. To that counsel for Mr. Fitzgerald did not object?—A. I should think they did. That was one of the most strenuous objections of the day. That was the one objection of the day.

Mr. CALLAHAN. Now, Mr. Stenographer, before you go, I would like to have this in the record, also: That I think it is very unfair for the counsel to make observations and make suggestions to the witness before he answers.

The WITNESS. Counsel has not done anything of the kind.

Mr. CALLAHAN. I would like to have it in as a matter of record.

The WITNESS. I would like to have it go in the record; it is not so.

Notary BERMAN. I have not observed counsel make any suggestions.

Mr. O'CONNELL. I have been watching the good-looking gentleman facing me rather than looking at the witness. I don't know how any such thought could have got into your head.

Mr. CALLAHAN. I want it to stand.

Mr. O'CONNELL. It is not right.

Q. Now, Mr. Tague, I think you said the newspaper men were there and they saw all the ballots that were counted on that day—opportunity to see all the ballots that were counted there. That is true, isn't it?—A. I don't know as to that.

Q. Now, Mr. Tague, you showed that you were familiar with the statutes yesterday in answer to your attorney's questions. Do you know, Mr. Tague, that your application to be heard by the ballot-law commission was filed late?—A. I don't know, sir. No.

Q. Did you ever read the statute about the requirements of filing a petition before the ballot-law commission?—A. No; I leave that to my attorney.

Q. And do you also leave the knowledge you have of the statutes to your attorney? Do you get it from him?—A. Not altogether.

Q. You testified yesterday you had a very clear knowledge of all the statutes on these election cases?—A. Some of them.

Q. Now it is only some of them.

Mr. O'CONNELL. I don't think he said "all" yesterday, either.

Mr. CALLAHAN. If he did not say "all," you said "all."

Mr. O'CONNELL. I beg your pardon.

Q. I think you allege, Mr. Tague, that the ballot-law commission did not give you a very square deal?—A. I still allege that.

Q. And don't you know that your petition to be heard on the primaries was filed later than the statute requires?—A. No.

Q. Didn't anybody ever call that to your attention?—A. Not to my knowledge; no.

Q. Didn't anybody in the secretary of state's office call it to your attention?—A. I don't remember that they did.

Q. As a matter of fact—will you tell me who filed your petition at the secretary of state's office?—A. I think it was Mr. O'Connell and myself.

Q. Do you know, Mr. Tague, what time you filed your objections to the nomination of John F. Fitzgerald at the secretary of state's office?—A. I have not the exact date.

Q. Don't you know it was about the 3d of October?—A. No; I don't know that.

Q. Did you ever see a card like that?—A. Yes.

Q. And you saw one of these this year, didn't you?—A. I presume I have.

Q. And did you ever read that item which calls attention to the fact that on September 30, at 5 p. m., would be the last day and hour for filing withdrawals or objections to the nominations of candidates?—A. I don't remember that I have.

Q. When you filed your objection to the nomination, were you informed by anybody that the time had expired?—A. I don't remember that.

Q. Don't you know that at the hearing before the ballot law commission question was raised by counsel?—A. I think Mr. Albers raised the question. I remember, relating to withdrawals.

Mr. O'CONNELL. In order that we may understand what is going on, here now, did I gather from you that you are maintaining that the ballot law commission acted illegally in entertaining our complaint?

Mr. CALLAHAN. If you want this clear, I will state to the record what we are trying to prove.

Mr. O'CONNELL. Go ahead.

Mr. CALLAHAN. I am going to get it into the record myself. I am going to say that the ballot law commission permitted the hearing after the rights of the applicant had expired, with the consent of Mr. Fitzgerald; that the Congressman was treated very fairly and very decently by the ballot law commission and by Mr. Fitzgerald.

Mr. O'CONNELL. Of course, there is nothing in your answer—

Mr. CALLAHAN. Oh, yes, there is.

Mr. O'CONNELL. That sets that up, and if it does set such a proposition up, it simply sets up this fact, that there must have been collusion between the ballot law commission and Mr. Fitzgerald to conduct a hearing which would consume all the time between that time and the day they sent down their opinion.

Mr. CALLAHAN. If you are going to confine us to our answer, which we hope you will, because it will confine you to your allegation and contention, I want to call your attention to the fact that on page 4, section 3, we call attention to the fact that—will you cross that out, please? In section 3 of the specifications of the contestant in this case he alleges, because the hearing before the ballot law commission of the Commonwealth of Massachusetts was conducted in an illegal, fraudulent, prejudiced manner by said ballot law commission, and then goes on more specifically, and in answer to that we say, "The contestee denies there was any delay on the part of the ballot law commission as set forth in that allegation," and, further, the contestee says that the time taken up by the commission in no way prevented his name from being printed on the ballot. Will you cross that latter part out, please? Or, rather, the contestee says that the contestant filed his objections to the nomination of said contestee on October 7, whereas in accordance with the statutory requirements it was necessary to file them not later than September 30, 1918. Now, if you want our answer, notwithstanding contestant's failure to comply with the law, the ballot law commission did decide to hear the objections and gave

the contestant every fair and reasonable opportunity to prove his case, the contestee heartily acquiescing to have the fullest inquiry.

I would like to offer this political calendar in evidence.

Mr. O'CONNELL. All right. Go ahead and mark it.

(Exhibit 11, political calendar issued by the secretary of the Commonwealth.)

Mr. O'CONNELL. You are certainly wishing something on the Commonwealth of Massachusetts here.

Mr. CALLAHAN. It is evident you don't understand it.

Mr. O'CONNELL. I do, but I want to tell you, it took me a long time, and that is why I have sympathy for them.

Q. Mr. Tague, did you ever remember a hearing that was ever conducted by the ballot law commission that consumed so much time as your own hearing?—

A. I never took part in a hearing.

Q. You are familiar with hearings before the ballot law commission?—A. I never attended one.

Q. Did you ever hear of a case taking as much time before the ballot law commission?—A. I have no case in mind at the present time.

Q. When you described the conduct of some of the persons present at the ballot—the hearing before the ballot law commission—Mr. Tague, you did not want to have it understood there were any assaults in the room or any disorder?—A. In the ballot law room?

Q. In the room where the ballot law commission was.—A. Plenty of disorder.

Q. That disorder was contributed to by both sides, wasn't it?—A. It was disorder just the same.

Q. But you don't say anything in the disorder or anything that happened in that room itself was responsible for the commission in making their decision, do you?—A. I certainly do.

Q. Do you mean to say now that the presence of any particular person in that room was responsible for the final attitude of that commission on this election contest?—A. Certainly I do.

Q. How is this commission composed? How is it made up?—A. I don't know. There are three members.

Q. And you know that is a bipartisan board, don't you?—A. Well, I don't know about the political——

Q. And it is appointed by the governor?—A. Yes.

Q. Well, now, as a matter of fact, don't you recall you made some objection, or you stated some about having Mr. Lomasney so near the members of that board, didn't you?—A. Yes.

Q. Well, now, as a matter of fact, was Mr. Lomasney any nearer, personally nearer, to that commission in that committee room than you?—A. Decidedly so.

Q. Isn't it true, Mr. Tague, on the day of the hearing when a great many witnesses were examined there that—and when they were being asked where they lived, and if they resided at a certain place on the 1st of April, and the commission, after asking questions, would look at the police list—isn't it true you were looking over the shoulders of these commissioners?—A. Never. I never was permitted to do it at any stage of the hearing.

Q. Do you mean to say at the time these men were being examined you were not looking over the shoulders of the commissioners?—A. I do say so.

Q. Where were you then?—A. I was standing beside Mr. O'Connell, at the end of the table, at the further end of the table, away from the commissioners.

FIVE-MINUTE RECESS.

Q. Now, Mr. Tague, I think you told yesterday of somebody that was assaulted at the hearing before the ballot law commission?—A. Yes.

Q. And that was outside, in the corridor?—A. Yes.

Q. You did not see it?—A. No. I saw the witness when he came back.

Q. You saw the witness when he came back and what you know of that is what he told you?—A. What he testified before the board.

Q. Before the ballot law commission?—A. Yes.

Q. You don't know of any other alleged assault at that time, or during any other hearing, do you?—A. There was one threatened. Another witness testified who had been threatened.

Q. Were you there when the threat was made?—A. No; he testified before the board to that effect.

Q. Now, it is also true that the men who were in the corridor of the election commission during the recounts are men that would be there at any ordinary recount, isn't it?—A. Oh, no.

Q. You named some of them. You named a number of them yesterday, and you named John I. Fitzgerald, State senator?—A. Yes.

Q. And you named Mr. Field, who at one time was secretary to Mr. Fitzgerald?—A. Yes.

Q. And you named Mr. Fitzgerald's brother, Henry?—A. Yes.

Q. And one or two other friends of Mr. Fitzgerald?—A. Yes.

Q. You don't consider it an unusual thing that they should be there?—A. No, not unusual that they should be there, but unusual to see a commissioner leaving the room and talking with them and then coming back and giving his decision against me.

Q. Did you see him do that?—A. Yes; I followed him.

Q. How many times?—A. Three or four.

Q. And he consulted this man during each one of these three or four times?—A. No; not every time.

Q. Mr. Lomasney was not at the recount of the primaries, was he?—A. No.

Q. Nor was he at the recount of the election?—A. No.

Q. The only place Mr. Lomasney appeared was at the ballot law commission?—A. That is all.

Q. You allege, Mr. Tague, that because of the length of the hearing held before the ballot law commission that you were unable to get your name on the ballot for election day?—A. Yes.

Q. If the commission decided, as it did, in favor of Mr. Fitzgerald, you know, don't you, that it would be impossible to have your name printed upon the ballot?—A. It would not be impossible if the court decided they were wrong nor if the court decided to have his name taken off the ballot. That is what I intended to do.

Q. Won't you please answer my question. Don't you know if the ballot law commission decided in favor of Mr. Fitzgerald there would be no way in which you could get your name printed on the ballot?—A. No; I don't think that is so.

Q. Don't you know, in order to have your name printed on the ballot as an independent candidate, you would have to fulfill certain statutory requirements and that you must make your application and file your nomination some time before the primaries?—A. That was a question that everybody was discussing at the time. It was a question whether or not that law would stand.

Q. Don't you know, as a matter of fact, that is a statue now?—A. Yes.

Q. So that the action of the commission—that is, the delay——

Mr. O'CONNELL. In these discussions of the law we can probably agree.

Mr. CALLAHAN. We have agreed. He said yes.

Mr. O'CONNELL. In order that there may be no question of law——

Mr. CALLAHAN. It is not.

Mr. O'CONNELL. Won't you let me finish what I am saying? You and I can agree here for purposes of record; it was impossible for any man to go on the ballot on election day as an independent candidate unless his papers had been filed on or before September 20, which was before the primaries.

Mr. CALLAHAN. I think you are correct in everything but the date.

Mr. O'CONNELL. It was before the primaries. The names would have to be certified on or before the 20th.

Mr. CALLAHAN. Now, the Congressman states that he knows that. I want this from the witness on the stand.

Mr. O'CONNELL. So it was impossible for anybody to be an independent candidate after the date of the primaries.

Mr. CALLAHAN. We don't say that is true. The substance of it is true, but I think you are wrong about the date.

Q. Now, then, it is true, so far as your name being on the ballot except as the regularly nominated candidate; the delay of the ballot commission had nothing to do with preventing that?—A. I think it had.

Q. How, and in what way?—A. I think the courts have a right to overrule the ballot law commission.

Q. Well, if the courts overruled the ballot law commission they could only overrule them and declare you are the only regularly elected candidate—A. Yes.

Q. And what is true now, except your name should go on as the regularly elected candidate, there would be no other way in which your name could be printed unless you made this application before the primaries?—A. I think so.

Q. You were familiar with that law, were you not, Mr. Congressman?—A. Somewhat.

Q. And you decided not to submit your name as an independent candidate?—A. I had no reason to submit it. Never gave it a thought.

Q. You were going to abide by the decision at the primaries?—A. I never gave independent candidacy a thought. I knew I could defeat Fitzgerald at the polls in a fair show at the primaries.

Q. In applying to the ballot law commission you felt you were applying to a regularly constituted board and that you were going to abide by their decision, didn't you?—A. No; I made no reference to abiding by any decision.

Q. Then, do I understand by that that you pursued this thing always with the thought that you would not abide by the decision of this board?—A. The thought never entered my mind.

Q. The thought never entered your mind?—A. No.

Q. But it is true that you were going to abide by their decision?—A. No; it is not true. I have not said so, either.

Q. Are you familiar with this statute, Mr. Tague, that says that the decision of the ballot law commission is final in all matters relating to the primaries?—A. No; I am not familiar with it.

Q. Well, we will offer that when the right time comes. Well, now, you took some steps, Mr. Tague, on the question of illegal or incorrect registration before the election commission, didn't you?—A. Yes.

Q. And what did you do?—A. Filed two hundred and some odd names with the election commission.

Q. And what did you do after filing the names?—A. Nothing. We were notified by the election commissioners they were going to call a hearing on the very day of the hearing before the ballot law commission. I asked to have it postponed, and they postponed it for a while and then dropped it. It was impossible for me to be there and at the ballot law commission at the same time.

Q. After the filing of these names were you ready at any time to go forward with the hearing on illegal registration?—A. Ready then and ready now.

Q. Didn't they notify you hearings were to be held at a certain time?—A. Yes, on the day of the hearing before the ballot law commission.

Q. Did they postpone the hearing?—A. For a week.

Q. At any time after that did you ask them to go into this question of illegal or incorrect registration?—A. No.

Q. Did your counsel at any time ask them to go into this question of illegal registration?

Mr. O'CONNELL. It was their duty.

Q. Did you ever receive more than one notice, Mr. Tague, about a hearing on this question?—A. From whom?

Q. From the election commission.—A. I don't think so.

Q. Did you make more than one application to them to go into it?—A. No.

Q. Did you make any such application before the primaries?—A. No.

Q. This application that you made directly before the election was the first and only request to have the election commissioners go into the question of registration?—A. That is all.

Q. Now, at any time, Mr. Tague, did you apply to the courts to go into the question of illegal registration?—A. Yes; I petitioned Chief Justice Bolster, of the Municipal Court, for an inquest on the illegal voting in ward 5.

Q. When did you do that, Mr. Tague?—A. I don't know the date, but the Thursday following the recount.

Q. Did you ever make any protest to any judicial body or any judge of a court about the conduct of the election commission in not going into this question of registration?—A. Yes; Chief Justice Bolster.

Q. After that, I say.—A. No.

Q. Chief Justice Bolster. Do you recall at what time you appealed to Chief Justice Bolster?—A. Filed the petition Thursday afternoon and had the hearing Friday morning.

Q. What did the hearing consist of?—A. Consisted of the Chief Justice hearing my counsel, Mr. O'Connell, and also Mr. Albers, who appeared with William J. Miller, representing Mr. Fitzgerald.

Q. And isn't it true at that time the court said if you would come forward with witnesses to testify he would be glad to hear you at any time?—A. No; the Chief Justice told us that he would set a date for the hearing and that he would conduct the hearing personally.

Q. Was there any date set?—A. No; he was to supply that himself.

Q. When you found that a date was not set, did you make any further application for a hearing on this question?—A. No; not yet.

Q. Well, now, I think you showed us yesterday a sticker that was put in evidence that you said was not gummed and was not issued by you or anybody authorized by you. Will you tell us now where you got that sticker?—A. I picked that sticker up in precinct 4, ward 1, during the day.

Q. That was on election day?—A. Yes.

Q. You say you picked it up. Picked it up off the floor?—A. No; some one handed it to me and said, "Here is a sticker they are passing out."

Q. Did you see any other stickers there besides that one?—A. The ones my men were passing out.

Q. That is true, but besides those your friends were passing out did you see any what we might call illegal stickers?

Mr. O'CONNELL. "Counterfeit stickers" we call them.

Q. Counterfeit stickers.—A. Not that day.

Q. You didn't see anybody who you thought was friendly with Mr. Fitzgerald giving out these stickers?—A. No; but I will present witnesses who did.

Q. Have you been able to get any more of these stickers?—A. Yes; we got quite a few of them.

Q. You conducted a pretty extensive campaign? I will not say "extensive." I will say "intensive" campaign during the last week or so; didn't you?—A. You ought to know. You were there.

Mr. O'CONNELL. It was only five days, so it had to be intensive.

Q. And during that time you sent out, I think you testified yesterday, two or three letters to all the district?—A. I did.

Q. And which was it; two, or three?—A. Three.

Q. And these letters were sent to every registered voter, weren't they?—A. Yes.

Q. And these three letters were intended to instruct the people on the use of the stickers, weren't they?—A. Yes.

Q. And you also sent out a sample ballot showing where to vote and how to vote, didn't you?—A. Yes.

Q. Will you tell us how many of these sample ballots were sent?—A. I sent one to each voter, and I think I had a hundred thousand printed and distributed all through the district.

Q. Was that one of the ballots?—A. It looks like one.

Q. Wouldn't you say that is one of them?—A. Well, it looks like it.

Q. Well,—A. I have seen circulars duplicated before.

Q. Look at it carefully. This is no joke. This is serious. Who signed your ballots or stickers which were sent out?—A. William Murray.

Q. Murray; and this is signed William Murray, 340 Saratoga Street, Boston?—A. Yes.

Q. Can you find any difference between that and the ballots you sent out?—A. No; I don't see any difference.

Q. As a matter of fact, wouldn't you say that was one of the ballots you sent out?—A. I would not want to say.

Q. Is that the kind of a ballot?—A. That is the kind of a ballot I sent out.

Q. And on the ballot you sent out, were these words printed, "Be sure and mark a cross where this hand points after you put the sticker on"?—A. Yes.

Q. And opposite the words "Paste sticker here" was a cross printed in the blank space?—A. Yes.

Q. And underneath this hand pointing to the place where your name—where the sticker was to be placed—was this sentence, "Be sure and stick the sticker where this hand points, then mark a cross at the right with your pencil"?—A. Yes.

Q. So that in everything that relates in any way to your conduct of your campaign—that is an identical specimen ballot—sample ballot, with the one you sent out?—A. Yes; I should say so.

Q. You can not find one bit of difference, can you?—A. No.

Mr. CALLAHAN. I offer this in evidence.

Mr. O'CONNELL. I would say this: We are going to offer ballots we had, and if that is one you secured from us or one that went through the mail that can go in, and there is no need of putting in two.

Mr. CALLAHAN. I will put this in. You need not put yours in. Nobody disputes that ballot?

Mr. O'CONNELL. It looks all right to me.

Mr. CALLAHAN. You had better get a microscope.

Mr. O'CONNELL. No; you give me your word it is on the level and I will take it.

Mr. CALLAHAN. You have the witness's word.

Mr. O'CONNELL. I will take your word.

Mr. CALLAHAN. I offer this in evidence.

(Exhibit 12, sample ballot sent out by Mr. Tague.)

Q. Now, you said you printed 100,000 of these and distributed them through the district. Was that 100,000 for the purpose of distribution at the rallies and meetings and on the streets?—A. Yes.

Q. And beside that 100,000, did you send some others through the mail?—A. No. I said I had 100,000 printed.

Q. It was 100,000 inclusive. Aside from these ballots and the letters you wrote, did you have big placards printed containing specimen ballots?—A. Yes.

Q. And did you have big posters containing specimen ballots?—A. Yes.

Q. And were not these posters and these placards identical with that specimen ballot?—A. I suppose they were.

Q. Calling attention to the fact that a cross was necessary to be put against the sticker?—A. Yes.

Q. Now did you also have, Mr. Tague, going throughout the district, wagons and automobiles with banners containing specimen ballots or posters containing specimen ballots?

Mr. O'CONNELL. One moment. I don't think you intended to misstate. I think you said it was absolutely necessary. There was not anything about absolutely necessary, and I don't think you intended to misstate it. I think if you will amend your question it will be all right.

Mr. CALLAHAN. I don't think I will amend it. It says, "Be sure and stick the sticker where the hand points, then mark a cross at the right with your pencil."

Mr. O'CONNELL. That is your interpretation.

Mr. CALLAHAN. I would like to have my interpretation. We will call attention to something later that will clear it up, possibly. Will you tell me how many of these wagons you had with posters or banners containing this sample ballot?

A. I did not have any, but a friend of mine had one printed.

Q. Was that on a wagon or automobile?—A. Small automobile.

Q. Every day, during the last week, did that go about your congressional district?—A. The last four days.

Q. The last four days. And nights also?—A. Not days—nights.

Q. Did you have control of all this advertising yourself, Mr. Tague?—A. I did not. No.

Q. Did you have a campaign manager?—A. Yes.

Q. Give us his name, please.—A. Joseph L. Kane.

Q. Did you have a campaign committee?—A. No.

Q. Did you have a finance committee, Mr. Tague?—A. No; did not have any finances.

Mr. CALLAHAN. I have some doubts about that.

Mr. O'CONNELL. You don't need to have any.

Q. Was this one of the letters that you sent out, Mr. Congressman?—A. I don't know whether that is one or not. It looks like it.

Q. We will have to waste more time, then.—A. Go ahead. Waste it.

Q. This is headed "House of Representatives, Washington, D. C.," and in the left hand corner, "Peter F. Tague, tenth district of Massachusetts," and in the right hand corner, "Joseph L. Kane, secretary." This is signed by a stamp, "Peter F. Tague." Will you read that, and please tell us if that is a letter you sent out?—A. I can not tell whether that is the letter I sent out. One similar to that.

Mr. CALLAHAN. I will have to read the letter.

The WITNESS. You are a better reader than I am.

Mr. O'CONNELL. You don't need to take time to read it. You can put it in and have it marked.

Mr. CALLAHAN. I would like to have it marked. This will be Exhibit 13.

(Exhibit 13, letter sent out by Mr. Tague from House of Representatives.)

Q. Will you say, Congressman, that is any different, or is there any material difference in that letter with the one that you sent out to the people of your district?

Mr. O'CONNELL. Just please read it over, Mr. Tague, before you answer the question.

Q. Is that?—A. It looks like it.

Q. You can't find any difference in that circular between that circular and the one you sent out or authorized sent out?—A. Except it is stuck on pasteboard.

Q. Just to preserve it. You are familiar with that pack, are you?—A. Very.

Q. I simply, in this exhibit, want to call attention to this one sentence that I want to be read into the record. "Remember, if you don't want to use a sticker you can write the words 'Peter F. Tague, of Boston,' in the space left for the sticker in the congressional column, but be sure and mark a cross with your pencil at the right of the sticker or name. In the name of honest elections I ask you to help me by explaining to your friends how to use the sticker or write the name and mark a cross on the right." Well, now, Mr. Tague, is this a letter that you sent out to the voters of the district?—A. It looks like it.

Q. Isn't it an actual letter you sent out?—A. I will not say that.

Q. We will have to describe yours.—A. Don't need to describe it.

Mr. O'CONNELL. Did you read it?

The WITNESS. I have seen others printed.

Q. This is headed, "Congressional Headquarters, Congressman Peter F. Tague, 43 Tremont Street, Boston, Mass." It has the union label on it.—A. All my stuff has the union label.

Q. And it is signed, "Peter F. Tague." Is that your signature or a stamp?—A. A stamp of my signature.

Q. Is there anything different from this letter and the letter you know you sent out?—A. Except this familiar paper on the back.

Q. But the letter is identical?—A. So far as I can see now.

Mr. CALLAHAN. I would like to read this part of this.

Mr. O'CONNELL. Do you want that identified as an exhibit? Put it in.

Mr. CALLAHAN. Yes; I want this as an exhibit.

(Exhibit 14, letter of Mr. Tague from 43 Tremont Street.)

Mr. CALLAHAN. As time goes on these get scarce, you know.

The WITNESS. Not down there.

Q. Beginning here, it says "It can only be done by the use of stickers or by writing the name 'Peter F. Tague, of Boston,' in the space left in the ballot for just such an occasion and marking a cross X at the right of the name. I am sending you inclosed a sample ballot and stickers with complete instructions where and how to place the stickers and write the name and mark the cross X. Above all things remember that after the sticker is pasted on or the name written in it is necessary to mark a cross X at the right with your pencil."

Now, were these letters or were the sample ballot, Mr. Tague, with stickers, sent to the voters of the district?—A. Yes.

Q. And were stickers sent with each letter?—A. No; I don't think so.

Q. Stickers were sent with one letter?—A. With the ballot.

Q. With the ballot. Now, I suppose, M. Tague, that you are familiar with the newspaper advertising in your campaign?—A. Fairly.

Q. And there was no advertisement in any one of the newspapers during that campaign that was not authorized by you, was there?—A. I don't think so.

Q. And this advertisement in the Boston Post of Monday, November 4, over your signature, was authorized by you?—A. Yes.

Q. And was it written by you?—A. I won't say as to that.

Q. You saw it before it was sent to the paper?—A. Yes.

Mr. CALLAHAN. I would like to offer this as an exhibit.

(Exhibit 15, advertisement clipped from Boston Post, Nov. 4, 1918.)

Mr. O'CONNELL. That is agreeable to us.

Mr. CALLAHAN. It is an advertisement on page 10 and reads as follows: "How to use stickers and vote for Peter F. Tague. To vote for Tague in Congress you may either write his name, 'Peter F. Tague, Boston, Mass.,' on the ballot and mark a cross alongside, or you can use a sticker. In using the sticker simply moisten the gummed side and stick it on the ballot, then mark a cross X alongside." Then, in large letters, "Don't forget to place the X alongside. Otherwise your vote will be wasted." And then, in smaller letters, "A Tague representative will be inside the polling booth at the ward and will pass you a sticker. I ask all men who believe in fair play, justice, and honesty to be volunteer workers and loan automobiles: Phone 3938." And that is your 'phone?—A. It was.

Q. Signed, "Peter F. Tague." This placard, Mr. Tague, signed William F. Murray, 340 Saratoga Street, Boston, is that one of the placards that you sent through the district?—A. It looks like it.

Q. Well, isn't it actually one of the placards? Only for the purpose of saving time.—A. I don't know.

Mr. O'CONNELL. If you will say, Mr. Callahan, that is a genuine one, so far as you know, I will admit it is.

Mr. CALLAHAN. I would like to have the witness say it was a genuine one.

Mr. O'CONNELL. How can he tell?

Q. Is there any difference between that placard and the placard you sent out?—A. I don't see any.

Q. Were these three sentences the same as I read on the ballot the same as the one you sent out?—A. Yes.

Q. And with the hand?—A. Yes.

Q. And it was headed in that way, repeated about the nomination?—A. Yes, repeated in red.

Q. And in all respects that is the same as the placard you sent out?—A. Yes.

Q. That is signed by William Murray and he is authorized to sign that by you?—A. Yes.

Q. And the placards you sent out were signed by William Murray, 340 Saratoga Street?—A. Yes.

Mr. CALLAHAN. I would like to offer this as an exhibit.

Mr. O'CONNELL. That is agreeable to us.

(Exhibit 16, placard showing ballot.)

Q. Now, Mr. Tague, will you tell us how many of these placards you had printed and sent out?—A. I don't know.

Q. Can you tell us approximately?—A. No; I don't know.

Q. Can you tell us who the printer was?—A. Yes; Buck Printing Co.

Q. What?—A. Buck Printing Co.

Q. Buck Printing Co. Will you tell us how many posters you had printed and distributed over the district containing sample ballots?—A. I can't tell you.

Q. Was it the same printing company printed them?—A. The same printing company.

Q. Well, now, in your speeches, Mr. Tague, you devoted some time in telling people about the use of stickers?—A. Yes.

Q. And in those speeches you told them it was necessary to place a cross against your name.—A. Some of them I did.

Q. Don't you know you did?—A. In some I may not but most of them I did.

Q. So far as the speeches went, your instructions about voting were no different from your letters, placards, and advertising?—A. No different. About the same.

Q. And in general you told them they had to place a sticker on or write your name in and mark a cross?—A. Yes.

Q. Just one more question, Mr. Tague; in the talks that you had with Mr. Lomasney relating to your withdrawal from the contest, was there anybody present besides you and Mr. Lomasney?—A. No.

Q. And in your talk with Mr. Fitzgerald relative to your candidacy or his candidacy or your withdrawal, was anyone present only you and Mr. Fitzgerald?—A. When we entered in the room Judge Sullivan was there, but he went out.

Q. I mean, at the time of the conversation, was there anybody present but you and Mr. Fitzgerald?—A. No.

Q. Where was the conversation with Mr. Fitzgerald held?—A. In a room in the Quincy House.

Q. Can you tell us about what time?—A. I should think about noon.

Q. I mean the time of day.—A. At noon; daytime. I don't know the date.

Q. You don't?—A. Previous to my entering the primaries.

Q. Previous to your talk with Lomasney?—A. Previous; my talks with Fitzgerald.

Q. Where were these talks with Lomasney?—A. Down to his room.

Q. By down to his room, what do you mean?—A. Down to the Hendricks Club.

Q. When you described the Hendricks Club yesterday, you described it as a political organization—that is, not any different from other clubs in the city organized for politics?—A. It is a great deal different from any organization I know of.

Q. It is organized for political reasons?—A. I don't know what the charter calls it but it is recognized as that.

Q. And you also have a club in your district?—A. Yes.

Q. And the name of that is the Northern Club?—A. Yes.

Q. How many members have you of that?—A. About 150.

Q. About 150, and you are the recognized leader of that club?—A. No.

Q. You are its organizer?—A. No.

Q. Organized by your political adherents?—A. No; it was organized before I ever belonged to it.

Q. When was it organized?—A. Four or five years ago.

Q. That organization has been used by you for political purposes?—A. No; that organization attends to charity in that district, more than any organization in Boston.

Q. You don't consider it unusual to have clubs in Boston?—A. No. You have one.

Q. You don't think it is unusual?—A. No.

Q. And you had no objection to the political club of Mr. Lomasney?—A. I have no objection to his political club.

Q. And you were glad to have it with you four years ago?—A. Yes.

Q. There is one other question. At these hearings before this ballot law commission and the recount commission were you represented by counsel?—A. I think so.

Q. Who was your counsel?—A. Mr. O'Connell, Mr. Goodwin, and Mr. Harrington.

Q. Anybody else?—A. No.

Q. And they attended all these hearings?—A. Some of them were there.

Redirect examination by Mr. O'CONNELL:

Q. Can you tell us how many lawyers Mr. Fitzgerald had?—A. John I. Fitzgerald, Duffey, Miller, Dave Mancovitz, Mr. Feldman, Vincent Brogna, and Homer Albers, John Feeney, Timothy Callahan, Robert Robinson, and Scigliano. I can't get in all of them.

Q. I suppose you want to confine yourself to attorneys?—A. If you want to confine me to real lawyers.

Mr. O'CONNELL. I ask that be stricken out.

Mr. CALLAHAN. I think it should be put in.

Mr. O'CONNELL. Strike out the last, about real lawyers.

Q. You were asked if the Hendricks Club is different from others. Isn't it a fact the Hendricks Club—that it is a democratic organization that has absolute control of the Republican votes as well as the Democrats?—A. Positively.

Q. And no other club is such a factor?—A. I don't think there is one in the country.

Q. When Mr. Callahan asked you when Mr. Lomasney decided to support you in your first fight and read to you from that record of the election commissioners, you stated that he decided to support you the Sunday before the primary?—A. Yes.

Q. In other words, that you were the man who would win, a picked winner?—A. Mr. Lomasney told me I had to show him before he would support me.

Q. And you did show him that you could win?—A. I did.

Q. And Mr. Lomasney's object in that time was to defeat Kelliher?—A. Yes.

Q. He was seeking at that time for reelection?

Mr. CALLAHAN. I don't like to interrupt, but it seems to me the witness should be permitted to testify.

Mr. O'CONNELL. I was just trying to save time.

Q. Whether or not it is the custom of Mr. Lomasney to find out who the winner is and then jump on the band wagon and by having his ward go with the winner get the credit of being a man whose political assistance is such that he can put across his man?

Mr. CALLAHAN. Wait. I desire to make my objection for several reasons. First of all, the question is leading; secondly, I don't think this witness has a right to testify to custom. The question is—

Mr. O'CONNELL. Would you like to have me withdraw the question?

Mr. CALLAHAN. I don't care whether you do or not.

Mr. O'CONNELL. I will withdraw it and have it stricken from the record.

Mr. CALLAHAN. I like testimony.

Q. I want you to clear up your statement about, having Lomasney, you lost votes. What do you mean by that?—A. A great many people in my district would not vote for me, having Lomasney with me.

Q. So you lost the support of men who would otherwise have been with you?—A. Yes.

Q. In what part of the district?—A. In Charlestown where there are so very many residents; the West End.

Q. Anywhere else?—A. East Boston.

Q. You had no opposition at all to your reelection the second time to Congress?—A. No.

Q. Now, you stated you were very friendly with Lomasney up to the time you voted for war. Explain what you meant by that.—A. When the question was brought into Congress of this country going into the war, Mr. Lomasney asked me not to vote for it. When I returned after voting for it, he said to me, "You have done it." And I said, "Yes, I did as I should do." Then he told me—he told me that the mothers of the sons who would be called into the war would never forgive me and the men of the district would never vote for me again for putting the country into war.

Q. What did you say?—A. I said I was willing to stand on my vote for my country and would stand by my vote for my country every time I voted in Congress.

Q. Was it then he told you that he would oppose you for that reason?—A. No; he made it very emphatic that he was displeased with my vote.

Q. When did he say that he would not support you because you voted for war?—A. Right after that, when I voted for conscription, or selective draft. He said that I could never go back to Congress.

Q. Now, Mr. Callahan asked you in regard to the method of the recount going on at the election commissioners' office. Whether or not there were other recounts going on at the same time as your recount in the same general office outside?—A. There were.

Q. Whether or not, outside the rail, there were a number of people who were allowed in there?—A. There were.

Q. Whether or not it required several policemen to restrain them and keep them in order?—A. That is so.

Q. As a result of the counting at the various or many tables at one and the same time, neither you nor your counsel was able to see all the ballots that were cast in that district?—A. Never.

Q. As a matter of fact, all the ballots you could see, or that your counsel could see, were the few that were brought into the room?—A. That is all.

Q. So you don't know, neither could your counsel know, how many other ballots without votes should have been counted for you?—A. No.

Q. And that applies to both the primary and the election, does it not?—A. Yes.

Q. Now, you were asked as to whether or not there was a recount of a recount, and what was the result of it. What was the result of that recount that was held of the recount in that particular precinct in the two precincts?—A. In ward 6, precincts 1 and 2, there was a question as to whether the count had been made right. We asked those ballots be recounted. Mr. Burlen agreed they would be counted. That is all.

Mr. CALLAHAN. Of course that is all.

Q. What was the result?—A. The result was a recount was had and we gained nine votes.

Q. That was the recount of the recount?—A. Yes.

Q. So, if there was a recount of the other recounts and that same ratio prevailed, you would have been elected by over a hundred?—A. If I had received a fair count of the ones that were challenged, I would have been nominated by over a hundred.

Q. You were asked if the presence of anyone at the hearing before the ballot-law commission had any influence on the attitude of the commission. Whom did you mean?—A. Martin Lomasney.

Q. Now, you were asked how many letters you had sent out through the mail. Was it two or three?—A. I think it was three. Two—the two exhibited here.

Q. These letters were written in the English language?—A. Yes.

Q. Your district is the most cosmopolitan district in New England, isn't it?—A. It is.

Q. And it is composed of a Hebrew population?—A. Yes.

Q. A Greek population?—A. Certainly.

Q. Chinamen and Syrians?—A. Yes.

Q. And other races?—A. Yes.

Q. Many of whom vote in the district?—A. Yes.

Q. And the number of these new races that could not speak English is very high?—A. Yes.

Mr. CALLAHAN. That is not amongst the voters.

Q. Mr. Callahan asks, how is it amongst the voters. Does that prevail?—A. I don't get the question.

Q. Mr. Callahan asks about how that is among the voters. Is there a large proportion that speak foreign languages?—A. I should think a very large proportion.

Q. Inasmuch as you both live in the district——A. I know how it is, and he does, too.

Mr. CALLAHAN. I know every man who is able to vote must be able to read and write.

Q. You were asked who was present with Mr. Fitzgerald when he came in, and you said Judge Sullivan. Inasmuch as there are four or five Judge Sullivans in Boston, will you tell us which one?—A. Charles S. Sullivan.

Q. You were asked, in your conversation with Mr. Lomasney who was present, and you said, "No one." Does Mr. Lomasney ever talk to anyone when there is anyone else present?

Mr. CALLAHAN. I object to that in evidence.

Q. In your discussion yesterday morning or in your testimony yesterday morning, you briefly referred to the resolution which I believe was described as the McLemore resolution. Had you voted against the McLemore resolution?—A. I had.

Q. Did you have any talk with Mr. Lomasney about it?—A. Yes; he told me I should not have voted against it.

Q. What was his attitude?

Mr. CALLAHAN. I suppose that is inadmissible.

Q. What did he say?—A. Mr. Lomasney told me that the McLemore resolution should have passed, and I should have voted for it. I thought I knew more about it than he did.

Q. What did you say?—A. I said I would not vote for any such thing.

Q. What did he say about Bryan's policy as against Wilson?—A. He wanted me to support Bryan's policy. He told me Bryan was right and Wilson was wrong.

Q. Mr. Tague calls my attention to something I omitted.—A. I intended to answer this when you asked me who was present with Mr. Fitzgerald, if anyone. When I went in the Quincy House and had my talk when he made his speech about being the only man who could build up the port of Boston and being the only man who was capable of representing this district in Congress. He also said to me, after he had said that, I could have a position with Mr. Peters, Mayor Peters. He said, "Mr. Peters is under obligation to me, and he would never have been mayor of Boston only for me." And I then asked him if he had double-crossed Jim Galvin, as Lomasney had double-crossed me. He got mad right off.

Q. What did he say?—A. Refused to answer. He said he was glad Jim Galvin was responsible for Peters's election.

Q. Where does Mr. Fitzgerald live?—A. Lives in Dorchester.

Q. Whose district is that?—A. James A. Galvin's.

Q. And that is Congressional District No. 12?—A. No. 12.

Q. How many years has he lived out there?—A. Twelve years, I think.

Q. So he was waging a contest against you in a district in which he did not live?—A. Yes.

Q. What else did he say? What else did he say with reference to having elected Mayor Peters at that conversation?

Mr. CALLAHAN. I wonder—It is immaterial.

Notary MANCOVITZ. Purely.

A. Bearing on the fact that he was trying to get me to withdraw from the contest, objected to giving him opposition, and leaving the field clear for him.

Q. Did he say anything about other candidates?—A. Told me the other candidates would be taken care of by Lomasney and wanted to know if I had further talk with Lomasney. Told him no, I had no further talk with him.

Q. Who were the other candidates?—A. James Brennan and Mr. Mereley.

Q. And Mr. Maguire?—A. Mr. Maguire.

Q. He was going to take care of these men?—A. Mr. Lomasney would take care of them.

Q. You were asked about Judge Bolster and your position for an inquest. You have done everything that could be done by you to get an inquest, have you not?—A. I have.

Q. And as the matter now remains, it is in Judge Bolster's hands, for him to set a date which he has said that he would set?—A. Yes.

Q. And did he give a reason at the time that he said he would set a time, that the influenza was prevailing and he did not think it was wise to set it for those days?—A. Yes, that is just what he did say.

Q. And told you not to talk to counsel, not to talk to anybody?—A. Yes.

Q. And you have followed intelligently by the course set?—A. Yes.

Q. And you have been waiting for the judge to do what he was going to?—
A. Yes, but I did not think there would be any need of it after the congressional committee gets through with it.

Recross-examination by Mr. CALLAHAN:

Q. Just a few questions. You said you failed in your first election because the support of Mr. Lomasney might be a detriment to you?—A. I did not say that.

Q. Didn't you say to have Mr. Lomasney advocate your candidacy would operate against you in certain defeat?—A. Yes, on certain people and in certain districts.

Q. But in spite of all that, you regarded the support that he would bring to you greater than the way he would operate against you?—A. No, I regarded my position in Congress and my record in Congress entitled me to the support of fair-minded men in the district and I received the support of fair-minded men in the district.

Q. Let us get down to the practical part of it. I don't think I misquote you, and you said Mr. Lomasney would injure you?—A. With certain people.

Q. And you said you could be elected without the support of his organization—A. Yes, and I have proved that in this election.

Q. And with that in mind, you went to Mr. Lomasney and asked for his support?—A. I asked him if he was going to be with me.

Q. Can't you answer that, yes or no?—A. No, I can't.

Q. Did you go to Mr. Lomasney and ask him for his support?—A. Yes, I asked him for his support. I went to every voter in the district.

Q. There was enough strength in his command so that you went to him and asked for his support?—A. Any organization where a man could use it properly was desirable to be gained.

Q. You did not believe your constituents have a right to question you about votes?—A. They can all question me about votes.

Redirect examination by Mr. O'CONNELL:

Q. How would you designate what he did?—A. He had threatened me and carried out his threat.

Recross-examination by Mr. CALLAHAN:

Q. What sort of a threat was that?—A. He told me I should never have voted against the McLemore resolution.

Q. But the threat.—A. He told me I should never go back to Congress because of my vote.

Q. When was that?—A. After I had voted in April, 1917.

Q. In April or May, 1917?—A. Yes when I came away after that.

Q. And how long after that did you ask him for his support?—A. I went down to ask him to keep a promise that he had made me that he would support me.

Q. Didn't you go after all these things and ask him for his support?—A. I asked him to keep his word to me.

Q. Can't you answer yes or no?—A. No; there is no answer yes or no. I asked him to keep his word to me.

Q. To support you?—A. Yes; to support me.

Mr. O'CONNELL. Right here may we agree that the stenographers can transcribe the testimony, and you and I can read over the testimony and then have the judges certify to it that it is correct.

Mr. CALLAHAN. I objected to that yesterday and I object to it now. I don't want to waive anything.

PETER F. TAGUE.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss*:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of their knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

I hereby certify that the foregoing in this volume, containing about 52 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

Boston, Mass., *May 5, 1919.*

Deposition of CORNELIUS J. SHEA, a witness called on behalf of Mr. Tague, who, having been first duly sworn, deposed:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Cornelius J. Shea.

Q. Where do you live?—A. 92 East Dedham Street.

Q. And what ward and precinct are you registered in?—A. Ward 6, precinct 6, I think it is, on Plympton Street, the gymnasium.

Q. Did you go to the polls on primary day, September 20, to vote?—A. Yes, sir.

Q. And what did you find the situation to be?—A. I went in and asked the inspector or the man at the rear for a ballot, gave him my name and address; he gave it to me, went in and voted, came out and put my ballot. The warden said, "Another fellow has just voted on your name." My name had been checked off as having voted previous to the time I had voted. Those are the only conditions I saw.

Q. How was your name checked on the list? Did they allow you to vote?—A. They allowed me to vote after knowing my name had been voted on.

Q. Did they make a record of that at the time?

Mr. CALLAHAN. If he knows.

Mr. O'CONNELL. Sure, he knows.

A. Did they make a record?

Q. Yes.—A. Yes; no record is there.

Q. Did they oblige you to write your name on the ballot?—A. No.

Q. Who was the one who said your name had been voted on before you went?—A. One of the State officers who was in charge of the voting booth, who was in charge of everything that was there.

Q. Did he show you where your name was checked off as having been voted on?—A. No; simply told me it was voted.

Q. Did he call the attention of the officers there to that fact?—A. The officers there seemed to know that my name had been voted on when I went in from the way they acted.

Mr. BROGNA. I ask that that be stricken out. The question is, did he call the attention of the officers to that fact.

The WITNESS. I am answering the question.

Q. What did they say, as you remember it?—A. They did not say anything; only that there was two ballots.

Mr. BROGNA. Just a moment.

The WITNESS. Just a moment, the question was——

Notary BERMAN. Mr. Witness, your counsel will take care of you.

Q. What did they say?—A. I will say what they done.

Notary BERMAN. If Mr. Brogna wants to wait until he has a chance to state his objection——

The WITNESS. As I was going out I took my ballot to put it in the box. One of the officers who was doing the checking of the voters when he heard my name mentioned, "Cornelius J. Shea depositing a ballot in the box," went over to another officer and looked in his book. I tell you what I thought.

Q. Never mind. What did he do?—A. Simply spoke to the other police officer.

Q. What did he say?—A. Did not say anything.

Q. Who told you your ballot had been voted on?—A. The man at the desk.

Q. The warden?—A. I don't know whether he is the warden or what. At the desk.

(Noon recess.)

Cross-examination by Mr. BROGNA:

Q. What is your business, Mr. Shea?—A. What is my business?

Q. What is your business?—A. Well, a general business I do.

Q. What?—A. I do a general business. I am not employed just now.

Q. And where do you live at present?—A. At 142 Wells Avenue.

Q. What ward is that?—A. I don't know what ward it is.

Mr. O'CONNELL. It is the same ward John F. Fitzgerald lives in.

Q. What street and number were you registered from last year?—A. 92 East Dedham Street.

Q. And were you on the voting list from that street and number prior to last year?—A. No, sir; I don't think so.

Q. Don't you know?—A. Not positive; no. Yes; I have voted from that street and same address previous to last year.

Q. Did you live at 92 East Dedham Street any time last year?—A. I lived there; yes.

Q. When?—A. On the day of registering voters.

Q. When is that?—A. Whenever it is—the 1st of April.

Q. And how long did you live there?—A. Only a short while.

Q. How long is that?—A. A week.

Q. And when did your week begin? When was the first day you lived there?—

A. About three days previous to the registration of voters.

Q. And did you go there for the purpose of voting from that place?—A. Yes, sir. I went there to live there.

Q. Who were you living with?—A. Living with a friend of mine.

Q. What is his name?—A. Martin Day.

Q. Is he married?—A. Is he married?

Q. Yes.—A. No, sir.

Q. Was he your landlord there?—A. He was my landlord.

Q. How many rooms did he have?—A. He was living with his mother.

Q. What is his mother's name?—A. Mrs. Day.

Q. Know her first name?—A. No; I don't.

Q. How many rooms are there in the tenement?—A. Five, I think.

Q. How many bedrooms?—A. Well, you could call everyone a bedroom.

Q. Was there a bed in each of the five rooms?—A. No.

Q. How many rooms were used while you were there, then, as bedrooms?—A. I used one bedroom.

Q. How about the others?—A. I did not go inquiring about the others.

Q. Did you ever go in any other room except your own room while you were there?—A. Oh, I went in the kitchen.

Q. Are you married?—A. Not that I know of?

Q. Have you any family?—A. Not that I know of.

Q. Any father or mother?—A. Got a father and mother.

Q. Have you been living with them recently?—A. All my life, other than that particular time.

Q. Are you living with them now?—A. I am living anywhere.

Q. Are you living with your father and mother now?—A. Not just now; no. I am living here now.

Q. You are standing here now. You don't mean to say you are living in this room?—A. Just now I am.

Q. You understand what I mean, don't you?—A. I don't want to make anything from you, but if I should take a walk over to Squantum to-night I would be living at Squantum.

Q. Where did you live last night?—A. I lived with my father and mother.

Q. And prior to last night, how long have you lived with your father and mother?—A. All my life, other than taking vacations now and then. I suppose you might call that living with your father and mother all your life.

Q. And your vacation comes when?—A. Every time things break——

Mr. O'CONNELL. It does seem to me—I have allowed this examination to go on, but it seems to me it is going too far.

Mr. CALLAHAN. I suppose you are going into the right of this man to vote. I suppose, since you are going to take up the question of illegal voting——

Mr. O'CONNELL. I certainly think you have a right to take up anything you like, but I think these questions are frivolous.

Mr. BROGNA. It is taken up by the Congressman.

Mr. O'CONNELL. It does not seem to me we ought to cumber the record with a lot of immaterial questions.

Mr. BROGNA. I will not admit my questions are immaterial. I think they are material, competent, and relevant to this examination.

The WITNESS. I think my answers are very material.

Notary BERMAN. Proceed.

Q. Where did your father and mother live in the last 12 months?—A. At 142 Wells Avenue, and at 85 Savin Hill Avenue.

Q. They have not lived at 92 East Dedham Street?—A. They have, previous to that.

Q. Within the 12 months?—A. No, sir.

Q. Did you pay any money for lodging at 92 East Dedham Street?—A. No, sir.

Q. You did not hire the room from anyone, did you?—A. No. Didn't have to.

Q. Now, when you went in to vote you gave your name to the inspector at the ballot box, didn't you?—A. Yes, sir.

Q. And a ballot was handed you?—A. A ballot was handed me.

Q. Can you give us the name of the inspector at the ballot box in the precinct where you voted?—A. I won't give you the name. No.

Q. Do you know it?—A. I could tell you that I think I know his name.

Q. What do you think his name is?—A. I think his name is Wedgeworth.

Q. And after you marked your ballot, you then went to the place where the ballot was to be received and announced your name in the ordinary way?—A. Yes, sir.

Q. Do you know the name of the man who had charge of the receiving of the ballot?—A. No, sir.

Q. Did he make any objection to receiving that ballot?—A. Not at all.

Q. Do you know the name of the man who made any objection to receiving your ballot?—A. There was no objection made. I was simply told my name had been voted on.

Q. Do you know the name of the man who said that?—A. I can tell you again that I think I know his name.

Q. What do you think his name is?—A. Wedgeworth.

Q. And he is the man who handed you the ballot?

Mr. O'CONNELL. I did not ask you that.

A. And he is the man that told me my name was voted.

Q. After he had handed you the ballot?—A. After he had handed me the ballot.

Q. After you had deposited it in the box?—A. After I had deposited it in the box, that my name had been voted.

Q. After the ballot was in?—A. After the ballot was in, he knowingly left me to vote, after knowing that my name had been voted on.

Mr. BROGNA. I ask that that be stricken out.

Notary MANCOVITZ. That may stand.

Q. Do you know who voted on your name?—A. No; I don't know who voted on my name.

Q. Were you active in the primary contest last year between Mr. Fitzgerald and Congressman Tague?—A. Yes.

Q. In behalf of whose candidacy were you active?—A. Well, I was active as just simply a citizen of America in that last campaign.

Q. In whose behalf?

Mr. O'CONNELL. He said as a citizen.

Q. In whose behalf was he so active as a citizen?—A. I was with Peter Tague.

Q. And who did you vote for?—A. I voted for Peter Tague.

By Mr. CALLAHAN:

Q. You testified that you talked to two men in the polling booth, Mr. Wedgeworth and one other.—A. I testified that I was talking—that the only conversation that I had was with Mr. Wedgeworth. After asking him for a ballot he told me that my name was voted on.

Q. Now, Mr. Shea, as a matter of fact, you were very much interested in the candidacy of Mr. Tague, weren't you?—A. Not at all. I did not know the man from Adam in that campaign.

Mr. O'CONNELL. Don't get excited, Mr. Shea. There is no occasion for it.

Mr. CALLAHAN. He will not get excited with me.

Mr. O'CONNELL. No; you are the mildest man alive.

Q. Isn't it true that on election day you acted as supervisor for Mr. Tague?—A. Uninterestedly. That is, the interest I took in it was, I was asked to act in behalf of the State to see that the election went through straight.

Mr. O'CONNELL. That was on election day.

Q. Were you acting as supervisor in Mr. Tague's interests?—A. On election day?

Q. Isn't that true?—A. On election day? That was on election day.

Q. And you stayed there all day?—A. I stayed there all day.

Q. And that was on behalf of Mr. Tague?—A. That was on behalf of Mr. Tague.

Q. Do you know whether you were staying there officially, Mr. Shea?—A. I was there with the full knowledge I was there as an official.

Q. And you were inside the booth and inside the rail all day long?—A. I was inside the voting booth all day long.

Q. Were you not inside the rail? A.—I was there on occasion.

Q. To vote?—A. No, to look over the ballots.

Q. As a supervisor?—A. As a supervisor.

Redirect examination by Mr. O'CONNELL:

Q. In order that there may be no confusion, you had been appointed by Gov. McCall as a supervisor for election day?—A. Yes.

Q. And the day your name was voted on was primary day?—A. Yes.

Q. And you did not know Mr. Tague at that time?—A. Did not know him at all.

Recross examination by Mr. CALLAHAN:

Q. Did you testify before the election law commission?—A. Yes, sir.

Q. Did you make the statement if Mr. Tague was elected he would be the next President?—A. Yes, I made the statement I would like to see him President.

Mr. O'CONNELL. Find out when Mr Shea can return and sign his deposition.

Mr. CALLAHAN. I think in Mr. Shea's testimony we can agree.

Mr. O'CONNELL. In order that the record may be clear: in regard to Mr. Shea's testimony it is agreed that the stenographer's record of what he said will be certified by the judges.

Mr. CALLAHAN. If compared and found correct.

Notary BERMAN. Of course.

Deposition of Capt. RICHARD FITZGERALD.

By Mr. O'CONNELL:

Q. What is your full name—A. Richard Fitzgerald.

Q. And you are captain in the police department of the city of Boston?—A. Yes.

Q. Station 3?—A. Yes.

Q. And near your station is located ward 5 of the city of Boston?—A. Yes.

Q. And on election day were you notified about violations of elections which were being carried on in precinct 4 of ward 5?

Mr. CALLAHAN. I object to that.

Notary MANCOVITZ. It may be admitted, under Mr. Callahan's objection.

Mr. CALLAHAN. I object to that on the ground it is hearsay evidence.

Notary MANCOVITZ. Note Mr. Callahan's objection.

Q. Were you so notified?—A. Yes.

Q. Your duty is to look after the election machinery in that district and see there are no violations of the law?—A. Yes.

Q. And as a result of investigation, what did you learn?—A. About 8.20 or 8.30 on September 24, 1918, which was the day the Senate primaries were held, I received information that the regular ballot box of ward 5, precinct 4, was not being used.

Mr. CALLAHAN. I object to this on the ground it is hearsay.

Mr. O'CONNELL. Proceed, Captain.

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection.

A. On the ground that a part of that ballot box could not be found and they were using a temporary emergency box in its place. A little later, on investigation, the part of the ballot box was found and it was put in operation and the ballots were transferred from the emergency ballot box to the regular ballot box.

Q. Did you find out how long they had been using the box other than the regular box?—A. Yes, sir.

Q. How long had they been using it?—A. At the time the correction was made it had been used for about 2½ hours.

Q. That is, for the first two or three hours' voting?—A. From 6 to 8.30.

Q. Did the person who complained to you state that he had complained to the election officials and they had not complied with his request?—A. No.

Mr. CALLAHAN. This question I object to as immaterial and irrelevant.

Q. Did you go to the booth to find out how things were going?—A. No, sir.

Q. That is all. Now, Captain, on primary day do you recall Mr. Stone coming to the police station to complain about having been assaulted?—A. Yes, sir.

Q. And again, on election day, was there a record of some assaults made during the election?—A. There were complaints made of some assaults.

Q. How many do you recall?—A. Only one.

Q. And was there a prosecution for that complaint?—A. Yes, sir.

Q. Were you captain at Station 3 in the year when Ernest Smith, who had been a member of our city council, was assaulted down in ward 5 because he was trying to see that the election would be run properly?

Mr. CALLAHAN. Wait a moment. I object to that.

A. No, sir.

Q. Were you captain the year Frank Siblek, the election commissioner, was assaulted down there?

Mr. CALLAHAN. I object to that.

A. No, sir. No, I will correct that. Yes.

Q. At that time Frank Siblek was election commissioner?—A. Yes, sir.

Q. And in pursuance of his work he went down there to see the work being done?—A. There was some dispute as to his right to enter inside the rail and in the muddle and fuss I suppose you might call it assault.

Cross-examination by Mr. CALLAHAN:

Q. You did not see him?—A. No, sir.

Q. You did not hear him?—A. No, sir; I got reports.

Q. And everything you got is from reports?—A. Everything is through reports. It has been reported to me personally.

Q. You did not see the assaults?—A. No, sir.

RICHARD FITZGERALD.

Deposition of GEORGE GIRVAN.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. George Girvan.

Q. Where do you live, Mr. Girvan?—A. 134 Union Park Street.

Q. How long have you been living there, Mr. Girvan?—A. About five years, I should judge.

Q. What is your business?—A. Brakeman.

Q. Freight brakeman?—A. Freight brakeman; yes, sir.

Q. And you are working on the Boston & Albany Railroad?—A. Yes, sir.

Q. That is a subsidiary of the New York Central?—A. Yes.

Q. And did you vote on the primary day, September 24th last?—A. No, sir.

Q. Were you anywhere near the polls on that day?—A. No, sir.

Mr. O'CONNELL. That is all.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Girvan, did you testify before the ballot law commission?—A. Up in the State House?

Q. In the State House?—A. Yes, sir.

Mr. CALLAHAN. That is all.

GEORGE W. GIRVAN.

Mr. O'CONNELL. I will offer to show that Mr. Girvan's name was voted on later when the check lists are presented.

Deposition of EDWARD O'BRIEN.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Edward O'Brien.

Mr. CALLAHAN. How about the signing of the testimony of these witnesses?

Mr. O'CONNELL. Can't we agree to waive that?

Mr. CALLAHAN. I suppose we must go through it in the regular way.

Mr. O'CONNELL. Are you going to make us go through all that? It seems to me—you have your stenographer here. I don't see why there should be any dispute.

Mr. CALLAHAN. Tell us how you can do it.

Mr. O'CONNELL. If you want to bring a locomotive engineer away from his work to do something that we can agree upon, it seems to me you are doing something that is extremely unreasonable.

Mr. CALLAHAN. I don't think I need comment on that.

Mr. O'CONNELL. No, I don't think you could make a comment that would be worth while.

Q. What is your name?—A. William Edward O'Brien.

Q. Where do you live?—A. 104 West Brookline Street.

Q. And you are a voter in ward 6?—A. Yes.

Q. What precinct?—A. Precinct 5.

Q. And did you go to precinct 5 to vote September 24th?—A. In the afternoon about 3.30.

Q. Were you permitted to vote? Tell us what happened.—A. I went in and he looked at me and he said, "I guess you voted," and I said, "No." It was about 3.30 in the afternoon.

Q. Had you voted before that?—A. Oh, no. He said, "Your name is checked off." I spoke to the warden and the warden said I could not vote so I went out and met Representative to the House Donovan, and the warden looked over his book—I was outside the rail—and they came out and said they would ring up the election commissioners. So they came back and said I could vote under protest, so I voted and wrote my name on the back of the ballot.

Q. Was there anything said about the kind of a man who had voted on your name?—A. No.

Q. But your name had been checked off as having voted?—A. As having voted on and checked off.

Mr. O'CONNELL. You may inquire.

Cross-examination by Mr. CALLAHAN:

Q. You live at 104 West Brookline Street?—A. 104.

Q. And live there now?—A. Yes, sir.

Q. Were you registered from there the first of April last year?—A. Yes, sir.

Q. And you actually deposited your ballot and exercised your right to vote?—

A. Exercised my right to vote, but they would not let me vote at all.

Q. But finally you had a right to vote and deposited your ballot?—A. Yes.

Q. Pardon me, did you testify before the ballot law commission?—A. Yes, sir.

Q. Did you testify the same way?—A. The same thing; yes, sir.

Notary BERMAN. You did vote?

The WITNESS. Yes, sir.

Mr. O'CONNELL. I might state with reference to the testimony of Mr. O'Brien that the voting list does not account for two votes having been voted on one name. That will be shown when the election records come in.

WILLIAM EDWARD O'BRIEN.

Deposition of CORNELIUS SHEA.

Direct examination by Mr. O'CONNELL:

Q. What is your full name.—A. Cornelius Shea.

Q. And your business?—A. Police officer.

Q. Connected with Station 3 of the city of Boston?—A. Yes, sir.

Q. Were you one of the police officers assigned on election or primary day, September 24, to precinct 4, ward 5?—A. Yes, sir.

Q. What time did you go there?—A. Six o'clock in the morning.

Q. Six a. m.?—A. Yes, sir.

Q. That is the time the polls opened?—A. Yes, sir.

Q. How long were you there?—A. Left at 7 o'clock.

Q. From the time you went until you left at 7 o'clock, where were you stationed?—A. Mostly inside the booth.

Q. During that time what was used for balloting?—A. An emergency ballot box.

Q. Was there anything said to you as to why that was being used?—A. No, sir.

Mr. O'CONNELL. I think that is all.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. Shea, while that emergency ballot box was being used the primary itself so far as it related to a man's going in and qualifying and depositing his ballot was all regular, wasn't it?—A. Yes, sir.

Q. Aside from the use of the emergency box instead of the other box during all the time you were there there was no other irregularity?—A. No, sir.

Notary BERMAN. None that he knew of?

The WITNESS. None that I knew of.

Q. And the emergency box was where the other box should be.—A. Yes, sir.

Redirect examination by Mr. O'CONNELL:

Q. Where was it?—A. Where the other box was.

Q. Were you in there when the ballots were taken out?—A. No, sir.

Q. You don't know anything about that?—A. No, sir.

CORNELIUS SHEA.

Deposition of ALLAN H. FARNHAM.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Allan H. Farnham.

Q. Where do you live?—A. 42 Ivy Street, Boston.

Q. And you are connected with the election commissioners' office?—A. Yes, sir.

Q. In what capacity?—A. Assistant registrar of voters.

Q. Sometime on primary day, September 24, 1918, were you sent to precinct 4, ward 5?—A. Yes, sir.

Q. What time?—A. Why, I think somewhere about half-past 8.

Q. What was the complaint?—A. It had been reported to the office that the crank was not to be found.

Q. When you got there, what did you find?—A. Found they had found the crank.

Q. Did they state where they found it?—A. In the regular place.

Q. In the regular place where it ought to be?—A. Yes, sir.

Q. Had the ballots been transferred at all?—A. So they stated.

Q. Now, this emergency box that they were reported to have been using is just a plain box with an opening about six inches in diameter?—A. It is an oval opening perhaps 6 inches long and perhaps 3 inches wide.

Q. Without anything attached to it indicating as to how often it is used, or any safeguards indicating how it can be used or anything?—A. It is a slot.

Mr. CALLAHAN. I do not suppose you can testify to the use.

Mr. O'CONNELL. I suppose he knows what it is.

Mr. CALLAHAN. Let him describe it.

Mr. O'CONNELL. Will you describe it so Mr. Callahan will be satisfied?

Mr. CALLAHAN. So you will know.

Mr. O'CONNELL. I know. I don't need to be advised on that.

Q. Describe it.—A. It is a box perhaps 18 inches long, 15 wide, 15 high. I don't know the measurements, but that is about it.

Q. Has it an opening in the top?—A. It has an opening in the top, a common slot that runs in the top, so that when the ballot is deposited the slot can be closed before another ballot can be deposited.

Q. Is there any mechanism about it to indicate how often it is used?—A. No, sir.

Q. And that opening is wide enough so a man could take a handful of ballots and deposit them at a time?—A. Why, a man could put his hand—. It is intended to take the ballots out, so you would have to lift them out.

Q. So, after the slot was lifted you could put your hand in as often as you pleased, so far as the box is concerned?—A. There is no record made of it.

Q. When the boxes are sent, instructions are also sent as to where the different parts are?—A. There are no instructions.

Q. Are there instructions given?—A. They can not deposit a ballot without opening a slide, and in the slide the crank is always placed.

Q. You did not understand my question. I am referring to the box used on election day. That box is provided by the State of Massachusetts, isn't it?—A. Yes, sir.

Q. And that box is so arranged by machinery that it can not be opened after once it is closed except by a key?—A. Yes, sir.

Q. And there is a machinery about it that indicates the number of votes that is put into it?—A. Yes, sir.

Q. And there is also a stamping machine connected with it so that every ballot that is cast has to be stamped?—A. Yes, sir.

Q. But on the other box there is none of this machinery; it is a plain box in which a ballot may be cast and when taken out it would have no record of any kind?—A. No.

Q. The ballot box—strike that out. Calling your attention to the ballot boxes and the paraphernalia that goes with the voting boxes, I would like—I wish to ask you where they are kept at city hall.—A. The ballot boxes?

Q. Yes.—A. In the room in the basement.

Q. In the room in the basement, and that is a large room downstairs?—A. Downstairs. Yes, sir.

Q. And that room is frequented during the day by members of the election board office and it is not under any particular combination?—A. No, sir.

Q. And many of the election officials, or rather the employees, eat their lunches there?—A. Occasionally.

Q. And occasionally go in there and have a smoke?—A. No, not that way.

Q. Well, if they wanted—if they wanted to rest they would go there?—A. No; it is not a social room.

Q. I know it is not a social room, but it has been used for social purposes, not in an offensive way, but when men are eating their lunch they sit there and talk and chat?—A. Naturally.

Q. And there is no watchman about there?—A. No.

Q. Now, the check lists are kept upstairs in the regular office are they not?—A. The voting lists?

Q. Yes.—A. Yes.

Q. So that after an election the check lists are brought into the regular office upstairs?—A. The vault.

Q. And then they are taken out and brought—and used for various purposes that they may be—that may be necessary?—A. Yes, sir.

Mr. O'CONNELL. At this time I want to notify counsel on the other side that I shall show by the testimony of the records of precinct 4 of ward 5 the condition of the voting and such facts as are important with the testimony of Mr. Farnham.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. Farnham, did you go to precinct 4, ward 5, yourself?—A. Yes, sir.

Q. And when you went there, was this emergency box under the control of the regular election officials?—A. When I arrived there I did not see the box. I simply took notice of the regular box.

Q. Now, do I understand that before you got there the ballots had been transferred from the emergency box into the regular box?—A. So I understood.

Q. Now, this emergency box is provided by your department, also isn't it?—A. Yes, sir.

Q. And you knew if the emergency box was in operation it would be under the control of the election officials of that precinct?—A. Certainly.

Q. How many election officials have they at a precinct like that?—A. six men.

Q. And these 6 men are divided among 3 Democrats and 3 Republicans?—A. Exactly.

Q. And they are appointed by your department?—A. Yes, sir.

Q. And in addition to these officials aren't there two or three policemen?—A. I know there are two policemen there.

Q. Don't you know the statute requires two policemen shall be there?—A. No.

Q. How many policemen were there when you arrived?—A. I recall seeing one.

Q. Now, Mr. Farnham, Mr. O'Connell has referred to the ballot boxes being in a social room. By ballot boxes, what do you mean?—A. Registering ballot boxes. The wooden boxes in which the ballots are deposited.

Q. The box that is furnished by the city?—A. Yes, sir.

Q. Now, I understand that is furnished by the city, but is under your control?—A. Yes, sir.

Q. And you keep it year after year?—A. Yes, sir.

Q. And these are registering boxes, aren't they?—A. Yes, sir.

Q. And when they are put down there they are empty?—A. When they are put down there they are empty; nothing in them.

Q. There are no ballots in them?—A. Not a one.

Q. The ballots are kept in a sealed receptacle, bound around with tape and a seal put on them?—A. It is a paper seal prepared by the department.

Q. It is a paper sticker?—A. Yes, sir.

Q. So, if there is any tampering with the packet that sticker is broken?—A. Yes.

Q. And there is no sticker put on except with permission of your department? Let me clear that up. Perhaps you did not understand. When these ballots are taken from the voting booth, I understand they are wound around by this tape and that sticker put on them?—A. Yes, sir.

Q. Nobody has any authority to take off that sticker unless there is a recount of the vote?—A. Yes, sir.

Q. And if there is no recount that sticker remains intact?—A. Yes, sir.

Q. Any ballots that would be in contest of the election would not be in this box?—A. No, sir.

Q. Where would they be?—A. In a vault specially kept for the purpose.

Q. Specially provided for the purpose?—A. Yes, sir.

Q. And that vault is in a room?—A. That is in the basement.

Q. That is in the basement?—A. Yes, sir.

Q. There are two locks to that vault?—A. Yes, sir.

Q. And there are two keys?—A. Two combinations.

Q. Who has the combinations?—A. The Republican commissioners one, and the Democratic commissioners another.

Q. So that nobody except these commissioners could open that vault?—A. No, sir.

Q. Now, these election officials or precinct officials are selected by the election board?—A. Yes, sir.

Q. And they are notified of their duties by the board?—A. Yes, sir.

Q. And they are sworn to perform these duties?—A. Yes, sir.

Redirect examination by Mr. O'CONNELL:

Q. These so-called election officers referred to are appointed by the election commissioners after recommendation by the various ward committees?—A. Yes, sir.

Q. Of course ward 5, being controlled by the Hendricks Club, it is controlled by both the Democratic and Republican committees?

Mr. CALLAHAN. Mr. Farnham, you don't have to answer such a question as that.

Mr. O'CONNELL. If he knows.

Notary BERMAN. I think it is a perfectly proper question, if he knows.

A. I do not know.

Q. These stickers, in order that there may be no misunderstanding about the stickers—these stickers that are put on are slips of paper with the four names of the commissioners printed on them. Isn't that right?

Mr. CALLAHAN. Why don't you ask him what it is, in order to save time?

Q. What is it?—A. The seal of the city of Boston with the ward and precinct printed on it.

Q. And it is just a small printed slip of paper about 2 by 4 or 2 by 3?—A. Why, no; I guess it is a little larger than that.

Q. About that size, isn't it [showing witness a piece of paper]?—A. I think it is a little larger.

Q. Make it any size, whatever it is.—A. I think that is about the size of it [folding paper].

Mr. HARRINGTON. Make it in inches, Mr. O'Connell.

Mr. O'CONNELL. That would be about 3 by 4.

Mr. CALLAHAN. Perhaps one can be obtained and marked.

Mr. O'CONNELL. I think so. There are thousands of these knocking about in the office up there.

Q. They fall off the boxes very frequently?—A. No, sir.

Q. Were not some of these boxes brought in to us to be examined with the seals fallen off?—A. Upstairs?

Q. Yes.—A. None that I saw.

Q. Don't you remember when they were brought up there two were missing and you called my attention to the fact and called the commission's attention to the fact?—A. I never called your attention.

Q. They are not put on by the commission, are they?—A. No, sir.

Q. They are put on by anybody that had one?—A. Put on by the officers.

Q. They could be put on by any one that had one?—A. Yes, sir.

Q. All they need to do to put it on is to moisten the gum and put it on?—A. Yes, sir.

Q. And if it were not put on carefully, it might fall off?—A. It might fall off.

Q. And the mere fact that one of these is on carries with it no assurance that it has been put on and kept on until it comes before the election commissioner?—A. Why, I—

Mr. CALLAHAN. If you can't answer it, you don't have to.

Q. Well, let me ask you the question in another way. You could take one of these stickers off and put another on if you wanted to?—A. If I got hold of the boxes.

Q. And these so-called seals, they are not guarded closely, the commission has a whole big package of them or a drawerful of them as the case may be, and you could help yourself to them if you had access to the drawer where they were?—A. Why, yes.

Q. When the vault is opened, then any one can go in that has access to it?

Mr. CALLAHAN. There are two vaults mentioned.

Mr. O'CONNELL. When the vault in which the ballots are supposed to be kept—

Mr. CALLAHAN. Are kept.

Mr. O'CONNELL. Is opened and the ballots taken out of there and taken upstairs, between the time that they are taken out and the time when they may be brought back later in the day, all those ballots remaining are accessible to anybody—

Mr. CALLAHAN. Wait just a minute.

Mr. O'CONNELL. Unless—you wait a minute—unless the doors have been closed and locked?

Mr. CALLAHAN. Wait a minute.

Mr. O'CONNELL. I ask for an answer to that.

Mr. CALLAHAN. Wait. Of course, I don't understand how you could answer that, but I want to call your attention to the fact your attorney has said "the place where the ballots are supposed to be kept" and I suppose your knowledge is confined to the place where the ballots are kept.

The WITNESS. Are kept.

Mr. CALLAHAN. If you will answer the question that way. Do you understand Mr. O'Connell's question?

The WITNESS. I do.

Mr. O'CONNELL. If Mr. Callahan had not interrupted you had it in mind. You could have answered it?

The WITNESS. I can answer it now.

Q. Will you please?—A. When the ballots are taken out the doors are closed and locked.

Q. My question was more than that. When the ballots are taken out, if the doors are not locked, people can go in there?—A. The doors are always locked.

Q. But if they are not, anybody could go in?—A. Would not allow anybody to go in who was not connected with the commission.

Q. But nobody is put on watch there?—A. They are locked.

Q. I am assuming that they may not be locked, just for the sake of this testimony. You are not being made responsible for any one.

Mr. CALLAHAN. He can not answer that question.

Q. Is there any guard put over that vault?—A. No, there is no guard put over it.

Q. Either day or night?—A. No.

Q. And it is in——. It is downstairs in the basement of city hall annex?—A. Yes, sir.

Q. At the office of the election commissioners?—A. Yes, sir.

Q. How large a vault is it?—A. I can not give you the dimensions.

Q. How many times——. You have been in a good many times, I suppose?—A. Yes, I have been in it a great many times, but I could not give you the dimensions.

Q. Would it be fair to say it is at least 12 by 12 feet?—A. Why, it is not a square vault and that is why I could not give you the dimensions. There is a jog into it that takes up considerable of the space.

Q. It is a large vault, anyway?—A. It is a large vault.

Recross examination by Mr. CALLAHAN:

Q. Now, Mr. Farnham, just a few questions. I understand when the ballots are brought in on election night they are deposited in this vault?—A. Yes, sir.

Q. And nobody can go to that vault without the permission or being accompanied by the election commissioners?

Mr. O'CONNELL. That is only an assumption.

Q. Isn't that so?—A. The men that take care of that are detailed by the board.

Q. To go there? So that these ballots are never in anyone's hands unless in the hands of sworn officials of your department?—A. Yes, sir.

Q. Now, there is not much doubt this is a real vault?

Mr. O'CONNELL. Just a second.

Q. And has a real steel door?—A. True.

Q. And you don't ever remember, do you, in your experience, that there was any person or anybody employed to watch this vault?

Mr. O'CONNELL. I don't know that is material.

Q. You know, of course, that the Democratic commissioners could not go to that vault without being accompanied by or securing the key from the Republican commissioners?—A. Yes, sir.

Q. And vice versa; that is true?—A. Yes, sir.

Q. You mean if you wanted to go there you could not go there without getting the key from the Democratic and Republican commissioners?—A. No, sir.

Notary MANCOVITZ. It is a combination.

Q. Or combination?—A. No, sir.

Redirect examination by Mr. O'CONNELL:

Q. You don't know anything that would prevent the so-called Republicans on that commission giving the combination to the so-called Democrats?—A. I don't know that they have done it.

Q. No; but there is nothing to stop that, and if he had both combinations anyone could open the vault?—A. Certainly; anybody that had the combination could open it.

ALLAN H. FARNHAM.

Deposition of JONATHAN TOMLINSON:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Jonathan Tomlinson.

Mr. CALLAHAN. Have you been sworn, Mr. Tomlinson?

The WITNESS. Yes, sir.

Q. And you are a police officer connected with Station 3 of the city of Boston?—A. Yes, sir.

Q. And on election day you were assigned as one of the police officials to precinct 4, ward 5?—A. Yes, sir.

Q. What time did you get there, Mr. Tomlinson?—A. 8 a. m.

Q. When you got there what did you find as to the method pursued by the officials in regard to the voting?—A. I arrived there at 8 a. m.; stood outside for about 15 minutes, then went inside; noticed they were not using the regular ballot box and inquired why——

Mr. CALLAHAN. Will you speak up?

Mr. O'CONNELL. He said he noticed they were not using the regular ballot box and inquired the reason why they were not using the regular ballot box. Go ahead.

Q. And the warden informed me they could not find the key; that they had not sent it down from the election commissioners' office with the box.

Q. Who was the warden?—A. I could not say I know what his name is. I don't know what his name is.

Q. Was it Mr. Quinlan?—A. I think so; yes, sir.

Q. Did you ask him whether he had made a report of it?—A. Yes, sir.

Q. What did he say?—A. He said he had not.

Q. Did you call his attention to the fact that he should have made a report of it immediately he discovered it?—A. Yes.

Q. Did he state when he discovered it?—A. Yes; said in the morning when they opened up he discovered it.

Q. And up to the time that you called his attention to it, that is 8 a. m., he had made no report of it?—A. No, sir.

Q. What did you do then?—A. Notified the station.

Q. What did you do to Quinlan?—A. Told him if he had not notified the election commissioners he had ought to, and if he was not going to I would have to. He said he was going to notify them when he went to dinner.

Q. What did you say?—A. I said I will have to notify them now.

Q. Did you do so?—A. Yes, sir.

Q. You went to the nearest patrol box and did so?—A. Yes, sir.

Q. When you came back from the patrol box what did you find?—A. When I got back they were changing the ballots from the emergency box to the other one.

Q. In other words, when you left to report it they then found the key?—A. In a few minutes. I stood outside a few minutes, and when I went in they were changing the ballots from the emergency box to the regular box.

Q. Was there any police officer inside whilst you were away?—A. Yes, sir.

Q. Who was it?—A. McCoy, I think was there, and Shea, the officer who testified here.

Q. I think you testified that the ballots were practically all transferred when you got back?—A. Yes, they were transferring them; yes, I think they were. They transferred them all. Showed me the box to show they were all out.

Q. You were not there when they started to transfer them without having them counted?—A. No, sir.

Q. You wanted to know they were all transferred?—A. Yes. I did not know they had found the key until I went in and they were transferring them then.

Q. How long were you gone, Mr. Officer?—A. It might have been six or seven minutes.

Q. Do you recall your testimony before the ballot law commission, Mr. Tomlinson, in which you said when you came back after making your report you found all the ballots had been transferred into the regular box when you got back?—A. I don't think I made any such statement. I might have. I don't think I did.

Q. Most of them were back?—A. It is only a short job. Would not take very long to transfer them.

Q. That box is opened by a crank, isn't it? Is it a crank or key?—A. The regular box?

Q. Yes.—A. It is opened by a key.

Q. And had they found the key when you got back?—A. Yes, sir.

Q. Did they tell you where they found it?—A. Yes, sir.

Q. Where did they find it?—A. Found it under the slide in the top of the box.

Q. That is the regular place for it?—A. Yes, sir.

Q. Did they tell you they found the crank?—A. It was the crank they could not find and not the key. It was not the key they lost. It was the crank.

Q. And that was found under the slide?—A. Yes, sir.

Q. In the place it is ordinarily put?—A. Yes, sir.

Q. Didn't they tell you they had looked in there before and could not find it?

Mr. CALLAHAN. Wait a minute. I object to that.

A. I asked if they had looked everywhere, and they said they had looked everywhere they thought it would be.

Cross-examination by Mr. CALLAHAN:

Q. What time did you go there? About 8 o'clock?—A. Yes, sir.

Q. And you went into the booth about 8.15?—A. Yes, sir.

Q. And there were two police officers there then?—A. Yes, sir.

Q. And you had some talk with them about the ballot box and then you went out and reported it to the station house, did you?—A. Yes, sir.

Q. And that took about six or seven minutes from the time you left until you came back?—A. I went in the booth; yes, sir.

Q. And when you went back after reporting, there were still two police officers there?—A. Yes, sir.

Q. And during that six or seven minutes these ballots had been transferred from this emergency box to the regular box. You did not see any ballots transferred, did you?—A. Yes.

Q. Who did the transferring?—A. The warden.

Q. The warden? Was there anybody there at the transferring, I mean right at the two boxes, except the regular election officials and you three police officers?

Mr. O'CONNELL. There were not three police officers.

A. There was nobody there at the transfer, only the regular officials.

Q. That is what I wanted to bring out. The only ones that were there at the transfer of these ballots from the emergency box into the regular box were the regular officials and you three police officers?—A. The police officers were outside of the rail.

Q. Where were you?—A. Outside of the rail.

Q. So the three of you were outside of the rail?—A. Yes, sir.

Q. How far away from where you were, were these two boxes?—A. About as far as that desk.

Q. As far as this desk?—A. Your desk.

Q. Where I am standing now? About 7 feet?—A. Yes.

Q. And they were in your clear view?—A. Yes.

Q. Did the warden tell you he was going to report it when he went to breakfast or at dinner time?—A. When he went to dinner.

Q. That was about 8 o'clock?—A. About quarter past.

Q. At the hearing before the ballot law commission didn't you say that the warden told you he was going to report it when he went to breakfast?—A. I don't think I did.

Q. You are not sure whether you did or not?—A. Yes, sir.

Q. You are sure you said there he was going to report it at his dinner hour?—A. Yes, sir.

Q. Did you stay there then, Mr. Officer, to see the voting going on after that?—A. I stayed until 10.30.

Q. What is that?—A. Until 10.30.

Q. Did you see anything irregular in the conduct of that primary or that election?—A. No; I was there until 10.30 and from 12 to 3.30 and from 3.30 to 4.

Q. When the ballots were transferred from the emergency box into the regular box, were they counted?—A. I could not swear to it.

Q. Don't you know whether they were or not?—A. I don't.

Q. Did you or any of the police officers at that time compare by your list or the checking list how many men had voted?—A. No, sir.

Q. And you did not take the trouble to compare the number of ballots that had been deposited with the checking lists?—A. No, sir. The ballots were all taken and registered in the regular manner.

Q. You did not take the trouble to do that?—A. No, sir.

Q. Nor the other officers?—A. No, sir.

Q. Were those ballots transferred one at a time?—A. Yes, sir.

Q. And the warden would take one out and put it into the regular box?—A. Yes, sir.

Q. And then would they be registered in the regular box?—A. Yes, sir.

Q. And that was in clear view of you three officers and everybody else?—A. Yes.

Redirect examination by Mr. O'CONNELL:

Q. That is only while you were there?—A. No, sir.

Q. You don't know what took place prior to the time you went in?—A. No.

Q. How many election officers were there?—A. Four there.

Q. Are you sure they were all there that day?—A. They have got to be there.

Q. Sure they have got to be, but are you sure they were all there?

Mr. CALLAHAN. Are you arguing with your own witness?

Mr. O'CONNELL. This is not my witness. This is a Government witness. All these witnesses are testifying for the United States Government. They are neither yours nor mine.

Q. Were you present when the report was made up of the transactions that took place in that booth on that primary day?—A. Yes, I think I was.

Q. Do you know, then, why it was that no reference was made in the report of the warden as to the transactions in regard to this transfer of the ballots?—A. No.

Mr. CALLAHAN. I don't suppose he could answer that.

Mr. O'CONNELL. I now notify you, Mr. Callahan, that I shall call attention to the clerk's report of the proceedings of that day in precinct 4, ward 5, in connection with the testimony of Mr. Tomlinson. That is all.

Recross examination by Mr. CALLAHAN:

Q. You testified before the ballot law commission, Mr. Tomlinson?—A. Yes, sir.

JONATHAN TOMLINSON.

Deposition of THOMAS JAMES QUIGLEY, JR.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Thomas James Quigley, jr.

Q. And you are a seaman?—A. Well, what do you mean, seaman?

Q. What is your business now?—A. Navy.

Q. You are in the United States Navy. And on September 24, 1918, where were you stationed, Mr. Quigley?—A. Deer Island.

Q. And that is one of the navy bases around Boston?

Mr. CALLAHAN. What is the date, please?

Mr. O'CONNELL. September 24.

Q. Where were you registered from on April 1, 1918?—A. No. 28 West Eagle Street, East Boston.

Q. Did you go to vote at your regular voting booth on that day?—A. I did, sir.

Q. What ward and precinct was it?—A. Ward 1. I don't know the precinct on it.

Q. It is the regular voting booth—

Mr. CALLAHAN. I suppose he should be permitted to tell.

Q. Where is this booth?—A. It is on the corner of West Eagle and Border Streets.

Q. Were you permitted to vote?—A. No, sir. I was not.

Q. Tell us what happened.—A. I received a ballot from the warden at the desk there. I don't know what his name is. Went over to get checked off. He said, "You can't vote. You are a sailor." I said, "What is the reason?" He said, "No man in a uniform can vote." I said, "I suppose if I go home and take the uniform off I can vote?" And he says, "Yes." Then I went out—no, I didn't. I got kind of hot and said, "you can go to h——." I said, "if I got to take off the uniform I will leave voting abide."

Q. The rules of the Navy are that you are not to take off your uniform during war, isn't it?—A. Yes, sir.

Mr. O'CONNELL. That is all.

Cross-examination by Mr. CALLAHAN:

Q. Wait a minute, Mr. Quigley. You don't know who that man was who told you you could not vote?—A. No, but he was a fellow that gives you a ballot. As you go in the booth, a fellow checks you off. You give your name and this fellow sitting outside looked to me like the warden the way he acted. He said, "You can not vote." He had one of these ballot lists, I guess, that he had in his hand. He said, "You can't vote here because you are in uniform."

Q. At any rate, it was an election official, as you think, that told you you could not vote?—A. Yes, sir.

Q. Now, wasn't there a police officer there at that time?—A. Yes, but he looked as if he was going to put me out.

Q. Just answer the question.

Mr. O'CONNELL. What was it he said?

Notary BERMAN. Mr. O'Connell, you may ask him.

Mr. CALLAHAN. Your judge is giving you some instructions.

Notary BERMAN. You may ask the witness what he intended to say if Mr. Callahan does not allow him.

Mr. O'CONNELL. Isn't he going to be allowed to finish his answer without Mr. Callahan interrupting him?

Notary BERMAN. He sure is going to be allowed.

Q. Do you know what I asked you?—A. Yes; you asked me if there was a police officer there.

Q. Exactly. You can answer that, yes or no.—A. Yes.

Q. There were two police officers there at that time?—A. I don't know. I think there was at that time.

Q. But you are sure there was one?—A. There was one.

Q. Did you say anything to that police officer about being deprived of your right to vote?—A. No, I did not.

Q. Did you tell anybody there about being deprived of your right to vote?—A. Only the fellow who had the ballot, the fellow who seemed to be an official.

Q. And your reply to him was, "Go to h——?"—A. No, I said, "I can vote if I go home and take this uniform off."

Q. You did not indicate, did you, to any election official for whom you were going to vote, did you?—A. No. No, I would not.

Q. So that the man who deprived you of voting did not know whether you were going to vote for Mr. Tague or Mr. Fitzgerald?—A. Not that I know of.

Q. Will you give us the location of that booth again?—A. Corner of West Eagle and Border Streets.

Q. What is it, again, please?—A. West Eagle and Border.

Q. And when was the first time you spoke of this to anybody?—A. I did not speak of it to anybody. I went home. I reported to duty at the navy yard that morning, did not bother. So when I got home called up the election commissioner to try to find out just why they would not let me vote, and the telephone operator said they were too busy. I said, "Who is that I am talking with?" and she would not give me anybody.

Q. When was the time you notified Mr. Tague or any of his friends?—A. I never notified Mr. Tague or any of his friends.

Q. You never notified them?—A. No, sir.

Q. Did you appear before the ballot law commission?—A. No, sir. I was up there but did not testify.

Q. You were up there but did not testify?—A. Yes, sir.

Q. Were you summoned there?—A. I was requested to be there.

Q. By Mr. Tague or one of his friends?—A. I don't know just who it was. I think it was one of Mr. Tague's friends.

Mr. CALLAHAN. That is all.

THOMAS JAMES QUIGLEY, JR.

Deposition of WILLIAM A. HEALEY :

Direct examination by Mr. O'CONNELL :

Q. What is your full name?—A. William A. Healey.

Q. Where do you live?—A. No. 877 Harrison Avenue.

Q. What is your business?—A. Ropemaker.

Q. What ward and precinct are you registered in?—A. Ward 6, precinct 9.

Q. On primary day, September 24, did you go to the voting booth in your precinct to vote?—A. Yes, sir.

Q. Were you permitted to vote?—A. No, sir.

Q. What did the warden say to you?—A. Well, I went in and gave him my name, and he looked up and said, that my name had already been voted, and I said, "That is funny, I have not even been here before," and then he had the fellow with the other book look it up to see if I was checked up in that, and I was checked up.

Q. And you mean by that book, when you checked off going in and coming out?—A. Yes, sir.

Q. Both election officers, then, had you checked off?—A. Yes, sir.

Q. What did you say then?—A. I asked him if I was going to lose my right to vote because somebody else had voted on my name, and he said I would have to go to the election commissioners.

Q. What hour was that?—A. About half-past two in the afternoon.

Q. Were you permitted to vote?—A. No, sir.

Q. Did you find out who had voted on your name?—A. No, sir.

Cross-examination by Mr. CALLAHAN :

Q. You live at 877 Harrison Avenue?—A. Yes, sir.

Mr. O'CONNELL. Did you say 2.30 or 3.30?

The WITNESS. Two thirty.

Mr. O'CONNELL. I simply call your attention to the evidence that was given before the ballot law commission that it was 3.30.

The WITNESS. Yes; I was thinking it was closed at 3.

Q. How long have you lived at 877 Harrison Avenue?—A. Let me tell you, I live with my folks and I left home a couple of times.

Q. Will you please answer my questions? How long have you lived at 877 Harrison Avenue?—A. All told or at one time?

Q. Altogether.—A. I have lived there about a year now.

Q. Where do you live now?—A. No. 877 Harrison Avenue.

Q. Where did you live the 1st of April, 1917?—A. No. 7 Worcester Street.

Q. No. 7 Worcester Street?—A. Yes, sir.

Q. Did you live at 7 Worcester Street with your folks?—A. No.

Q. I mean 1918. April 1, 1918, where did you live?—A. No. 7 Worcester Street.

Q. No. 7 Worcester Street?—A. In 1918, yes; 7 Worcester Street.

Q. Did you live there with your folks?—A. No; I roomed there.

Q. Where did your folks live at that time?—A. Lived at 877 Harrison Avenue.

Q. And they have lived there for some time, have they?—A. About a year and a half, I should say.

Q. How long did you live at 7 Worcester Street?—A. I lived there about three months—two months and a half.

Q. Did you ever vote before 1918?—A. Yes, sir.

Q. When?—A. The year before.

Q. Any time before that?—A. The year before that.

Q. And where did you vote from?—A. I voted from precinct 9 two years and from precinct 7 the year before.

Q. And from what residence?—A. Well, the first year I voted from precinct 7, at 103 East Brookline Street, and the second year I voted from precinct 9, from 68 West Concord Street.

Q. West Concord Street?—A. Yes, sir.

Q. And after that?—A. And the last year, 7 Worcester Street.

Q. And when you voted from these places you lived there?—A. Certainly.

Q. You lived in all these three places during these three years?—A. No.

Q. Did you call anybody's attention to the fact you were deprived of voting?—A. The warden.

Q. Anybody beside the warden?—A. The men inside the booth, the warden, and the other election officials.

Q. Did you call the attention of the police officers?—A. They were standing right there and they looked it up.

Q. Please answer my question.—A. They were standing right there and they looked it up and they seen I had not voted.

Q. Please answer my question. Did you call the attention of the police officers to it?—A. No, sir.

Q. And did you call the attention of anybody you knew to the fact that you were deprived of your right to vote?—A. That day?

Q. Immediately following.—A. Yes; I did. I was talking with a couple of fellows and told them about it.

Q. Told them about it?—A. Yes.

Q. What are their names?—A. One fellow's name is Crowley.

Q. Where does he live?—A. In Dorchester somewhere.

Q. What is his first name?—A. Jim.

Q. Jim Crowley. What is the other fellow's name?—A. Coleman.

Q. What is his first name?—A. Bill.

Q. When you went there that day and asked for a ballot, you gave your own name and you gave your residence as 877 Harrison Avenue?—A. No. 7 Worcester Street.

Q. Gave your residence at 7 Worcester Street. Did they tell you your name was not on the ballot—was not on the list?—A. I seen it was on it.

Q. From 7 Worcester Street?—A. Yes, sir.

Q. You saw your name was on the list?—A. On it and checked off.

Q. And was it on the regular list?—A. I don't know which list it was on. I saw it.

Q. You had voted there a couple of years, hadn't you?—A. Yes, sir.

Q. Was it a list like this?—A. Well, it was a list somewhat the same as that, with names on it.

Mr. O'CONNELL. That is not the list which was presented.

Mr. CALLAHAN. I know it is not. It is one like it.

Mr. O'CONNELL. I don't know that it is. How do you know?

Mr. CALLAHAN. I am not testifying. Let the witness testify.

Mr. O'CONNELL. I don't think you ought to—

Q. "City of Boston, list of registered voters." That was the kind of a list you saw?—A. All I saw was an open book.

Q. You saw your name on the voting list?—A. I saw my name on the voting list.

Q. On the voting list, and we will ask if it—

Mr. O'CONNELL. Let him hurry up and get through.

Q. Now, Mr. —. What is your name?—A. Healey.

Q. Look at 7 Worcester Street. Do you find your name on that list?—A. I don't think so. No.

Q. And that is the regular voting list for ward 6, precinct 9?—A. I don't know whether it is or not.

Mr. O'CONNELL. What year?

Mr. CALLAHAN. 1918.

Q. Did you continue to live at 7 Worcester Street?—A. When?

Q. After the primaries?—A. I did; yes.

Q. And when did you go to 977?—A. I am not living at 977.

Q. Why did you give your residence as 977?—A. I did not give it as 977.

Q. Didn't you give it to Mr. O'Connell?—A. No, sir; 877.

Q. No. 877. I beg your pardon. No. 877 Harrison Avenue. You are living there now?—A. Yes, sir.

Q. And is that where you are registered in the draft, 877 Harrison Avenue?—A. Yes, sir.

Redirect examination by Mr. O'CONNELL:

Q. Just one question. You say it was half an hour before the polls closed when you went to vote. To go up to the State House to see the election commissioners and go back would consume more than half an hour?—A. It would consume more than half an hour? It would be useless.

Recross examination by Mr. CALLAHAN :

Q. Where do you work?—A. Navy Yard.

Q. In what department?—A. Ropewalk.

Q. And you were placed there by Mr. Tague?—A. Oh, no.

Q. But you are working in a department where a relative of Mr. Tague is superintendent?—A. Is he? I don't know.

Q. Who is the superintendent?—A. Mr. Turnbull.

Q. Mr. Turnbull. Did you know he is related to the Congressman?—A. No, sir.

Redirect examination by Mr. O'CONNELL :

Q. You are a registered civil service employee?—A. Yes, sir.

Q. And your name was taken from the civil service list?—A. Yes, sir.

Q. And you are beholden to nobody for the job you have for the United States Government?—A. Positively no.

Recross examination by Mr. CALLAHAN :

Q. How long have you worked there?—A. Three years next month.

Redirect examination by Mr. O'CONNELL :

Q. And you will work as long as the United States Government wants it, whether John F. Fitzgerald wants it or not?—A. Yes, sir.

WILLIAM A. HEALEY.

Deposition of CHARLES M. EATON.

Direct examination by Mr. O'CONNELL :

Q. What is your full name?—A. Charles M. Eaton.

Q. And you are a police officer connected with the city of Boston?—A. Yes, sir.

Q. Attached to station 5?—A. Yes, sir.

Q. Were you assigned to duty on primary election day, September 24, in ward 6?—A. Precinct 3.

Q. Precinct 3, ward 6. Did you arrest a man by the name of Runci?—A. I did.

Q. For attempting to vote on another man's name?—A. I did; yes, sir.

Q. What did Runci say to you about it?

Mr. CALLAHAN. Of course I object to this, relating a conversation. I would like to have my objection noted.

Notary BERMAN. You may note Mr. Callahan's objection.

Mr. CALLAHAN. I don't see why we should be bound by what Runci said to this man.

Q. Please, what took place and what was said and done at the time?—A. About 3.20 in the afternoon this Runci came into the voting booth at ward 6, precinct 3, and gave the name of Joseph Fuffury. A ballot was handed him. He went in the booth and stayed there a short time, came out, went to the ballot box ready to deposit the ballot. The warden stepped up and he said, "Just a minute. Have you got any letters or anything upon you to identify you to be the man in the name you are voting?" And he says, "No." The warden had the checking list in his hand and he said, "You are a taller man than this man. You are a younger man than this man. You are a heavier man than this man." He said, "Mr. Officer, I want your assistance." I went along behind the rail and asked him if he had any letters, post cards, or means of identification. "He said "no." I told him to let me see his identification card. He did, and the name was Joseph Runci, Genesee Street. I think 24 or 16. I placed him under arrest and took him to the station house; searched him. After he was searched, asked him if he wanted to make a statement. He said he did if it would help him any. I said, "Whatever statement you make may be used for or against you in court." Asked him who told him to vote under this name. He said, "I don't know." He said there was a man standing outside of the door who said to him, "You are an Italian and there is an Italian living at 151 Dover Street. Go in and vote upon his name. They are all doing it. No harm done and you will be doing the boys a great favor. Vote for Mr. Donovan for Representative."

Q. Is that all?—A. That is all.

Q. You may inquire. By the way, that is Mr. Runci sitting here?—A. Yes.

Cross examination by Mr. CALLAHAN :

Q. Mr. Officer, were you there when he deposited the ballot?—A. He did not deposit the ballot. They did not allow that.

Q. That was not allowed?—A. No.

Q. So that there was no vote counted?—A. No.

Q. You don't know whom he voted for, of course?—A. No, I don't.

Q. When you searched him, Mr. Officer, did you find any political cards in his pocket?—A. Yes, I should say so. I found fifty or a hundred cards for Wassersaw, who was running for representative.

Q. But not a congressional candidate?—A. No, sir.

Redirect examination by Mr. O'CONNELL:

Q. What became of the ballot?—A. When I saw it last it laid on the table inside the booth. I don't know what became of it.

Q. You don't know what became of it?—A. No, I don't.

Recross-examination by Mr. CALLAHAN:

Q. You testified before the ballot-law commission?—A. I did.

Q. Substantially as you did here?—A. Yes, sir.

Q. And at that time Mr. Runci was called as a witness?—A. Yes.

Q. And refused to testify on the ground it would incriminate him?—A. Yes.

CHARLES M. EATON.

Deposition of AUGUSTUS RUNCI.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Augustus Runci.

Q. And you live where?—A. 69 Dover Street.

Q. Are you the Augustus Runci concerning whom Officer Eaton has just testified?—A. Yes, sir.

Q. The man who attempted to vote in precinct 3, ward 6?—A. Yes, sir.

Q. On the name of another man, not your own?—A. Yes, sir.

Q. Will you tell us who asked you to vote?—A. I don't know who asked me to vote. I don't know his name.

Q. Don't know his name. Have you seen him since?—A. No, I have not.

Q. Had you ever seen him before?—A. No, I did not.

Q. Had you voted in that precinct that day before that?—A. No, I voted in precinct 2, not in 3.

Q. Precinct 2 of the same ward?—A. Same ward.

Q. Did you vote anywhere else that same day?—A. No.

Q. Are you sure of that?—A. Positively.

Q. What were you doing that day?—A. I was stationed at the entrance to the primary school for a friend of mine, Meyer Wassersug.

Q. You were engaged then in the interests of someone who was running for office?—A. Yes, a friend of mine.

Q. Was it that friend who asked you to go in and vote?—A. No, it was not him.

Q. Was it some of his friends?—A. Not that I know of.

Q. And you had been around that ward all day up to the time you were arrested?—A. Yes, sir.

Q. All day?—A. From 8 o'clock in the morning.

Q. Have you told anybody that you had voted?—A. What is that?

Q. Did you tell anybody about having voted there?—A. No, I did not.

Q. I wish you would describe the man who asked you to do this and for whom you did it.—A. Well, he was a tall chap and he was dressed in a light gray suit.

Q. How old?—A. Well, I don't think he was anywhere more than about 30.

Q. Could you tell him if you saw him?—A. I don't think I could.

Q. You could not?—A. No.

Q. And you had never seen this man before?—A. No.

Q. Were you sober?—A. Just as sober at that time as I am now.

Q. And you did that?—A. The way it was put up to me as if I had to do it. It was a duty.

Q. How was it put up to you?—A. A fellow came up to me and said, "You are an Italian and there is an Italian named Fuffury who has not voted yet, and you can vote for him and you will be doing the boys a big favor."

Q. What boys?—A. I don't know.

Q. Did you ask him?—A. No.

Q. What did you say?—A. I said, "If I am doing anybody a favor—I have never thrown anybody down yet."

Q. Never thrown anybody down yet, but you were then going to throw a man down by using his name, voting on it. Did that occur to you?—A. No, it did not occur to me until afterwards, until it was too late.

Q. Until you were arrested. Tell us something more about what was said and done at that time.

Mr. CALLAHAN. He has told you.

Q. How long did that take?—A. About five minutes.

Q. Was it inside the booth?—A. No.

Q. How near the booth?—A. I should say about 100 feet off.

Q. About 100 feet off. Were the police officers around?—A. No.

Q. Do you mean to say you met this man, a stranger, outside of the booth and had this talk with him?—A. Yes, sir.

Q. And that was all the talk?—A. I do.

Q. Did he give you any money?—A. If he had I would not take it.

Q. Why not?—A. If I do a man a favor, I would not take money.

Q. Do you call it a favor to vote for a man?

Mr. CALLAHAN. I think you ought to get away from this witness. Young man, keep quiet. I do think you should not frighten the witness.

Mr. O'CONNELL. I am going to calm him down.

Mr. CALLAHAN. I think you are the one that has got to be calmed down.

Notary BERMAN. Mr. Witness, you must——

Mr. CALLAHAN. I think counsel should be instructed to keep away from the witness.

Notary BERMAN. I think Mr. O'Connell has conducted himself properly.

Mr. CALLAHAN. If he is your witness, you can not cross-examine him.

Mr. O'CONNELL. Will you please make an order, so I may proceed?

Notary BERMAN. Mr. Witness, do not argue with anybody in this court room. If you don't like the questions, don't answer them. Don't get angry with anybody.

Q. Will you tell us how you were doing anybody a favor by fraudulently voting at the request of a stranger?—A. It all depends on the way you were feeling and the way you are approached by the man.

Q. Tell us the favor you thought you were doing.—A. I thought I was doing him a favor.

Q. Who?—A. Doing him a favor when I voted for his friend.

Q. Did he tell you who to vote for?—A. Yes.

Q. Did you know this man that told you to vote?—A. I did not get that right.

Q. Don't you know the name of this man that told you to do this voting? How do you know he was a friend?—A. The way it was put up to me.

Q. How was it put up to you?—A. I did not say this man was a friend, but he said it would be a favor to the boys.

Q. What boys are you talking about?—A. Meyer Wassersaw and Tom Donovan.

Q. Tom Donovan was one of the representatives managing Mr. Fitzgerald in that ward, wasn't he?—A. I don't know.

Mr. CALLAHAN. Did you say you don't know?

Mr. O'CONNELL. Won't you let him answer?

A. I don't know.

Mr. CALLAHAN. He said he did not know.

Q. How well do you know Mr. Donovan's brother?—A. I don't know.

Q. You do know him, don't you? A. No; I don't.

Q. Haven't you seen him?—A. Tom Donovan's brother?

Q. Yes.—A. No.

Q. How have you mentioned his name?—A. I said Tom Donovan.

Q. You said he was one of the boys.—A. I know his name is on the bill posters.

Q. How did you happen to call him Tom Donovan?—A. All the boys do.

Q. How was it helping Tom Donovan if you went in and voted this way?—A. I would not know just how it would be helping him. It did not help him a great deal. It hurt him.

Q. And what boys are there that call him Tom Donovan that you had in mind?—A. The boys I mingle with.

Q. Who are they?—A. One of them is named—the reason I might call him?

Q. Name the boys.—A. I won't name the boys.

Mr. CALLAHAN. Everybody calls him Tom Donovan.

Mr. O'CONNELL. Wait a minute.

Mr. CALLAHAN. The same as they call you Joe O'Connell.

The WITNESS. Why should I go to work and name my friends' names in a court room?

Q. I want to get at the truth and want the names of these men who are connected with you.—A. There was nobody connected with me.

Q. I want you to name the men you had in mind when you said it would help the boys for you to do that.—A. Meyer Wassersaw and Tom Donovan.

Q. How was it helping Tom Donovan?—A. That I could not say.

Q. Didn't you know Tom Donovan was interested in handling John F. Fitzgerald in that ward?—A. No.

Q. You have known it since, haven't you?—A. No.

Q. You have known it since, haven't you?—A. Ever since I was arrested I have not followed up politics at all.

Q. Didn't you know?—A. No.

Q. What did you mean by saying to the policeman, "They are all doing it?"—A. Those are the very words the fellow said that wanted me to vote for Tom Donovan and Meyer Wassersaw.

Q. What did you mean when you said, "They are all doing it?"—A. I supposed others had done it.

Q. Was he a man that had been around all day?—A. I could not tell you.

Q. You knew him well enough to take his word?—A. I did not know him to take his word; just as I would take yours if I met you in the street, or some one else's.

Q. You took his word as being truthful?—A. Probably I did.

Q. And you took it as being truthful every time because you knew him and had good reason to believe what he said was truthful?—A. No.

Q. And you would do that for any stranger who would come up to you on the street?—A. No; I would not.

Q. Would you before that?—A. Probably I would. It seems I did.

Q. Would you do it after that?—A. No; I would not. I have had my lesson. I would not do it.

Q. How often had you done it before?—A. Never done it before.

Q. But this stranger who spoke to you on the street wanted you to, so you immediately did it for him?—A. I did not do it immediately.

Q. How soon did you do it?—A. He came up to me in an appealing way.

Mr. CALLAHAN. I ask that this has all been gone over.

Notary BERMAN. I think Mr. O'Connell is within his rights.

Q. How long were you?—A. Five or ten minutes.

Q. What did you do during the 10 minutes?—A. Went down and got a ballot and was marking the ballot. The warden—

Q. I asked you what you were doing during the 10 minutes?—A. What I meant was, he was appealing to me for about 10 minutes.

Q. Give us some more of the talk that took place during the 10 minutes.—A. That was all.

Q. And you want us to believe that you would not know that man again although he was talking to you 10 minutes?—A. I was so excited I would not be sure. I might know him.

Q. You were not excited at the time he was asking you to go in and vote, were you?—A. When I got inside.

Q. I am not asking you about inside. I am asking about when you were talking with him.—A. Yes.

Q. Did you let him know you were excited?—A. No; I did not want him to think I was yellow.

Q. Who were you bound up to that it would seem to be yellow? Who were you bound up to in any way, shape, or form that it would seem to be yellow to refuse to vote wrongly? Tell us the man that would think that.—A. You asked me if I was excited.

Q. I am asking you to answer my question.—A. No.

Q. Who was the man, or group of men, that would think you yellow?—A. The way I loow at things now, I don't think any sane man would think I was yellow.

Q. Who did you have in mind when you thought that?—A. Ne never told me anyone's name.

Q. Who did you have in mind?—A. Listen. You asked me if I was excited and if I told him I was excited. I told you I did not tell him I was excited, because I did not want him to think I was excited.

Q. I asked you who you had in mind that would think you were yellow.—A. had no person in mind that would think it.

Q. Did you mean what you said?—A. Probably I did not. I don't know just how to get at it.

Q. Is much more of your testimony wrong?—A. No, sir.

Q. What else was said when he was inducing you to vote under another man's name?—A. That is all he said to me, kept repeating, trying to get around it in a nice way that it would be doing him a big favor and that I should do it and that is all.

Q. That you should do it?—A. That I should do it. That is all.

Q. How often did he tell you they were all doing it?—A. I think he only told me about once.

Q. And that was about once, and that was enough to induce you?—A. Yes, sir.

Q. Were you haggling about the price?—A. There was no price.

Q. Anyone else present?—A. No, sir.

Q. How did you happen to go up there to that booth at that time of day?—A. I was down there on Genesee Street, so I simply took a walk down to see how things were turning. That is all.

Q. You were stationed on Genesee Street?—A. Yes; because the majority of the people I know were voting on Genesee Street.

Q. And you had no other business; no real business in mind when you went up to Groton Street?—A. No, sir; just simply——

Q. Just simply what?—A. Just simply to see how things were going. That is all.

Q. Well, Mr. Rinci, had you seen any other boys doing this or trying to do it; voting on others' names?—A. No; I had not.

Q. How did you happen to take this man's word for it, that it was truthful?

Mr. CALLAHAN. Just a minute?

Notary MANCOVITZ. It is argument.

Notary BERMAN. I think this question is properly put.

Q. How did you happen to take this man's word for it, that it was truthful?—A. I simply took his word for it, that is all.

Q. And he was a total stranger to you?—A. He was a total stranger to me.

Q. Never had seen him before?—A. Never had seen him before.

Q. Would you know him if you saw him?—A. I don't know that I would. I might recognize him. I don't know as I would recognize him.

Q. Where were you living at that time?—A. 14 Genesee Street.

Q. What is your business?—A. Business was that of salesman.

Q. Were you working?—A. Yes, sir.

Q. But you were not working on that day?—A. No; I was off on account of election day.

Cross-examination by Mr. CALLAHAN:

Q. You testified you were friendly with Mr. Wassersaw?—A. I did.

Q. And he was a candidate for the legislature?—A. I did.

Q. And that was your particular interest there that day?—A. Yes; I was asked by Mr. Wassersaw if I would kindly do him a favor by going out and see if some people would vote for him.

Q. The reason for your staying away from your regular employment and going there that day was to advance the interests of Mr. Wassersaw?—A. Yes, sir.

Q. And that was your chief interest?—A. Yes, sir.

Q. That was your only reason?—A. Yes, sir.

Q. You had no interest whatever in the congressional contest?—A. No, sir.

Q. Anybody connected with Mr. Fitzgerald ask you to vote?—A. Not that I know of.

Redirect examination by Mr. O'CONNELL:

Q. Anybody connected with Mr. Tague ask you to vote?—A. Not that I know of.

Q. You knew Tom Donovan was interested with Mr. Fitzgerald?

Mr. CALLAHAN. There is no evidence here of that.

Mr. O'CONNELL. There will be evidence.

Q. Go ahead. You do know since?—A. No; I don't, Mr.——

Q. Haven't you read the papers?—A. What is that?

Q. Don't you read the papers?—A. I kind of followed up the hearing at the State House because my name was in it quite a little. That is why I did. Otherwise I did not.

Q. You kind of look at this as a joke?—A. No, sir; I do not, when my reputation is at stake.

Q. And you have come on this stand and assumed an attitude of being amused at what went on here.—A. I feel as serious about it as you or anyone else. Probably it seems to anybody little when my reputation is at stake.

Q. You have not conducted yourself this way.—A. Probably it is my disposition.

AUGUSTUS RUNCI.

Mr. O'CONNELL. It is agreed between Mr. Callahan, representing Mr. Fitzgerald, and Mr. O'Connell, representing Mr. Tague, that immediately after we finish with the witnesses already summoned we will go on with the examination of the election commissioners concerning the ballots and what their requirements are in the way of identification.

FRANK I. BARRY, sworn.

Q. What is your full name?—A. Frank I. Barry.

Q. Where do you live?—A. No. 5½ Ashburton Place.

Q. Did you go to your precinct to vote on primary day?—A. Yes, sir.

Q. Were you handed a ballot by the election officer?—A. Yes, sir.

Q. What did it disclose?—A. It was a ward 4 ballot, precinct 5.

Q. Where is ward 4, precinct 5?—A. I think it is in Charlestown.

Q. In another part of the city?—A. Yes.

Q. Did you call the election officer's attention to that fact?—A. Yes, sir.

Q. Did you hand the ballot back to him?—A. I did, after they refused to allow me to tear it up.

Q. You desired to tear it up?—A. Yes.

Q. Why did you want to tear it up?—A. Because I had it partly marked.

Q. Did you testify substantially same before hearing before ballot law commission?—A. I did.

Q. Did you receive another ballot?—A. Yes.

Q. And after marking the second ballot as you described, did you deposit the same in the ordinary way in the ballot box.—A. Yes, sir.

Q. And then went home?—A. Yes, sir.

Q. Was this primary day or election day?—A. Primary day I guess.

Q. Did you notice whose names were printed on the first ballot which you received?—A. I did not until I got half way down, and found they were all Charlestown people.

Q. As candidates for Congress?—A. I would not say as to that, I don't think I got that far.

Re-direct examination:

Q. Do you recall whether there had been any writing on that ballot or not?—A. Nothing but what I marked.

Re-cross examination:

Q. Were you summoned to appear here to-day?—A. I was.

Q. Have you received a witness fee?—A. No, sir.

FRANK I. BARRY.

COMMONWEALTH OF MASSACHUSETTS.

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole, and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 57 pages, together with the notice of contest and answer, is a true and correct copy of the

testimony taken before me, under oath, in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., May 5, 1919.

JAMES JOSEPH McCARTHY, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. James Joseph McCarthy.

Q. Where do you live?—A. Now 895 Huntington Avenue, Roxbury.

Q. What is your business?—A. Credit manager.

Q. For whom do you work?—A. Read in the record, not for outside though.

Q. Were you present in ward 5 on election day?—A. Yes, sir.

Q. And you went down there as one of those who were to represent Mr. Tague in order to see that there would be no illegal voting?—A. Yes, sir.

Q. And did you have a list of the names of illegal voters whom you proposed to watch and call attention to the officers that they had no right to vote?—A. I did.

Q. At what time did you go to the election?—A. I should say half-past 9 or 10 o'clock in the morning.

Q. What booth was it do you recall?—A. On Norman Street, the Washington School.

Q. In ward 5?—A. Yes, sir.

Q. Describe what happened?—A. I went into the booth, and went over and stood at the rail. I was there about five minutes when a man came in whom I had reason to believe was an illegal voter and had registered illegally, and his vote I challenged. When the other people there saw what my business was they objected to my standing on the rail, and I was asked by the warden to stand back 3 feet, which I did. I had no sooner stood back when another man came in, and asked the man who had objected to my standing on the rail for the list which he held. He evidently represented the opposition——

Mr. CALLAHAN. We don't care whom he represented. You didn't know he represented the opposition?—A. He did represent the opposition. This man also went over and stood on the rail.

Q. On the rail—what do you mean?—A. He was standing as I am here. He was standing at the rail. I let him stand there for a moment and then I objected to his being at the rail and he was requested to stand back 3 feet. Then I saw I could go over and get nearer election officers and hear the names more distinctly by going to the left of the entrance and I asked the warden if there was any opposition to my standing there and he was about to protest when the officer said, "You are all right; stay there." Then, perhaps, I challenged four or five names when one fellow came in whom I challenged and the warden would not accept it. There was considerable commotion, and five or six of the crowd hanging around there jostled me and one man reached in and grabbed for my check list. I stuck the list in my pocket with this hand [indicating] and reached out with this hand and grabbed him by the collar, and by that time the officer was right outside there and I pushed him into the officer's arms, using this motion [indicating]. That list which I had with the names of the illegally registered voters——

Q. Whom you intended to challenge?—A. Yes.

Q. And that was what the man sought to get away from you?—A. Yes.

Q. Do you know who he was?—A. His name was Lee, I believe. He lived next door to the station house on Joy Street.

Q. Was he affiliated with the other faction?—A. He was.

Q. How many were engaged in this commotion against you?—A. At least five and possibly eight.

Q. Describe the commotion?—A. There was a round pillar there in the basement of the schoolhouse, perhaps 24 or 30 inches thick, and they jostled me against the rail and this fellow reached in and grabbed for the list.

Q. They surrounded you?—A. No, not that; but they were around in front of me with my back to the rail.

Q. What did the officer do then with this man?—A. Grabbed hold of him and said "You can't get away with that in any polling place where I am an officer."

Q. What did he do?—A. Arrested him—held him there and sent outside for another officer. Then he said to me, "You had better come with me; they will tear you apart."

Q. The officer said that to you?—A. Yes.

Q. What did you do then?—A. I went with the officer to station 3.

Q. And this man was booked for assault?—A. Assault and battery.

Q. Did you go back to the booth?—A. I did not.

Q. Why?—A. If I went back there I would need a company of infantry to keep me together.

Q. You were in fear of assault? The officer told you they would eat you alive if you didn't come out of there?—A. He said they would tear me apart, to the best of my recollection.

Q. What did you do then?—A. After the man was booked at the station house I went out and went up Joy Street and along that street back of the statehouse, over toward Beacon Street, over toward Somerset Street, and somebody stepped out from one of those big stairways going to the statehouse, came behind me and gave me a punch in the jaw. I turned around—

Q. Soon after leaving the station house?—A. Just after. They were waiting for me. This one was all I saw at the time, and he started after me and three or four big fellows came after him. I ran across the statehouse grounds and got down to the Carney Building. Three of them went into the building by way of the stairs and I took the elevator.

Q. Right to the Tague headquarters?—A. Yes.

Q. You didn't go back to the booth again during the day?—A. No, sir.

Q. This man that assaulted you was represented by Mr. Mancovitz?—A. Yes, sir.

Q. Who is now presiding as judge for the Fitzgerald forces?—A. Yes, sir.

Q. And when he appealed to you about having the boy released, did you tell the judge that you didn't care to prosecute any further?—A. I did.

Q. You had nothing against this man personally?—A. I had nothing against him; no.

Q. In fact Mr. Tague told you not to prosecute him?—A. Yes; he said he didn't want to put any boy away.

Q. Said what?—A. That he didn't want to put any boy away.

Q. How many names did you have on your list to challenge?—A. There were over 50.

Q. And how many had you challenged at the time you were assaulted?—A. Three, four, or five, I wouldn't say which—not more than five.

Q. Did the warden accept all that you challenged?—A. No; he would not accept them.

Mr. O'CONNELL. That is all.

Cross-examination by Mr. CALLAHAN:

Q. I understand you went there with a list and there were some names on that list, names of voters that if they were going to vote you were going to challenge them—challenge their vote?—A. Yes, sir.

Q. Who asked you to do that?—A. Mr. Kane.

Q. Mr. Kane is who?—A. Mr. Tague's secretary.

Q. Anybody else?—A. I don't recall, there were several in the office, but Mr. Kane I think was the one.

Q. You were in the Navy at that time, weren't you?—A. Yes, sir.

Q. And where were you stationed?—A. Little Building.

Q. And what were your duties?—A. Yeoman.

Q. You were a yeoman?—A. Yes, sir.

Q. And were you supposed to be on duty there?—A. No, sir.

Q. Were you supposed to be on duty there every working day?—A. No, sir.

Q. Where did you live?—A. No. 895 Huntington Avenue, Roxbury.

Q. Did you live there then?—A. No, sir.

Q. You live there now?—A. Yes, sir.

Q. Where did you live then?—A. No. 72 Fisher Avenue, Roxbury.

Q. You weren't either a resident or voter in this congressional district?—A. No, sir.

Q. You secured your post as yeoman through the influence of Mr. Kane, did you?—A. No, sir.

Q. What brought you in touch with Mr. Kane?—A. I have known him for several years.

Q. Did you secure your position through the influence of Mr. Tague?—A. No, sir.

Q. How long have you known him?—A. Several years.

Q. Were either of them instrumental in any way in advancing you in the Navy?—A. Advancing me?

Q. Yes?—A. I was never advanced.

Q. You went in as a yoeman?—A. Yes.

Q. And you stayed a yoeman?—A. Yes, sir.

Q. Are you a yoeman now?—A. Yes.

Q. Are you discharged yet?—A. No.

Q. Did you have the right to take your uniform off that day?—A. I refuse to answer.

Q. Why?

Notary BERMAN. I don't think that is material.

Mr. CALLAHAN. Counsel can make an objection and the objection is noted. You are making an objection and you want it noted?

Mr. O'CONNELL. Yes, sir. The man has answered his question.

Mr. CALLAHAN. I asked him why he refuses to answer.

Notary BERMAN. I don't think the witness is bound to answer.

Mr. O'CONNELL. Hurry the thing along.

Mr. CALLAHAN. This thing isn't going to be hurried along. I am going to press for an answer and get it or know the reason why.

Mr. O'CONNELL. I can not stop you and I don't intend to stop you.

Q. Why won't you answer?—A. I refuse to answer.

Q. Why do you refuse?—A. Refuse to give any reason.

Q. Did you have a right to take your uniform off that day?—A. No, sir.

Q. And that is a naval regulation isn't it?—A. What?

Q. That you shall wear your uniform at all times?—A. Yes.

Q. And in violation of that regulation you took the uniform off?—A. I refuse to answer.

Q. You will admit that the naval regulations require that you wear your uniform each day?—A. I will.

Q. And on that particular day to come down and do this work for Congressman Tague or his secretary, you took your uniform off?—A. I refuse to answer.

Q. Will you say you didn't do it?—A. No, sir.

Q. That was the work you went down there to do wasn't it, Mr. McCarthy?—

A. What was that?

Q. To challenge the votes of some names given you by Mr. Kane?—A. Yes.

Q. And that was the reason you went down there, wasn't it?—A. Yes.

Q. And if you didn't go down there for that purpose that day, you would have gone to the Little Building, and you would have worn your uniform?—

A. No, sir.

Q. Where would you have gone?—A. I might have gone anywheres at all. Might have gone to a show.

Q. You would have your uniform on?—A. I might have.

Q. Wouldn't you as a matter of fact?—A. As a matter of course, I would have.

Q. Do you mean to tell me it has been your custom to take your uniform off any day that you chose?—A. No.

Q. This was the only day, wasn't it?—A. I refuse to answer.

Q. Why?

Mr. O'CONNELL. He doesn't need to answer. This is a wide open hearing.

Notary BERMAN. The witness must be protected.

Mr. CALLAHAN. I hope you will insist on protecting the witnesses all through this hearing and no witness need fear anything from me, I am simply asking orderly and proper questions.

Q. Now as a matter of fact, Mr. McCarthy, that was the reason you took your uniform off?—A. I refuse to answer.

Q. You will admit that you have violated a naval regulation?—A. I will admit it.

Mr. O'CONNELL. That has been asked twice. I will advise witness that he doesn't need to answer questions more than once, and I think it is about time for his honor to tell Mr. Callahan that he can not ask a witness the same question more than once, and also tell the witness that he doesn't need to answer the same question more than once.

Mr. CALLAHAN. I also suggest to your honor that if Mr. O'Connell will observe that himself I shall gladly do so. That is my friend's greatest failing, asking a question more than once.

Q. Mr. McCarthy, you didn't know any men in that precinct, did you?—A. Yes.

Q. You did know some?—A. Surely.

Q. You knew some of the voters in that precinct?—A. I probably knew quite a few.

Q. Can you name any of them?—A. I probably knew of them going to school.

Q. Who?—A. Joseph Lomasney.

Q. You didn't know any in that precinct?—A. I didn't know any in that particular precinct.

Q. I mean in that precinct where you went? If you won't pay any attention to Mr. O'Connell and just answer. Can you name any one person in that precinct that you know?—A. No.

Q. And when you went down there to challenge votes you were going to challenge votes of men whom you did not know?—A. Yes.

Q. And if they came in to the booth you wouldn't know who they were?—A. No.

Q. And no description of these voters had been given to you had there?—A. No.

Q. You simply were going to challenge all the names that Mr. Kane gave you and you didn't know why you were going to challenge them?—A. No.

Q. You didn't know of your own knowledge why you should have challenged any one of those voters, did you?—A. I believed Mr. Kane implicitly.

Q. Of your own knowledge did you know of one reason why you should have challenged these voters?—A. Yes.

Q. What was that?—A. Illegal registration.

Q. Give me the name of one man you challenged and tell me why you challenged him?—A. One man's name was either Kane or Walsh.

Q. You challenged a man named Kane?—A. I think that was the name.

Q. Are you more sure of Walsh?—A. No.

Q. You are not sure of either?—A. No.

Q. Let us take Kane. You didn't know Kane and never saw him before.—A. No.

Q. Didn't know whether he was black or white?—A. No.

Q. You didn't know whether he lived in that ward or any other, of your own knowledge?—A. No.

Q. You didn't know whether he had been registered in the ward illegally or not, did you?

Mr. O'CONNELL. He has answered that question once before.

Q. You didn't know of your own knowledge that he was registered illegally in that ward, did you?—A. Of my own knowledge, no.

Q. When you challenge a voter, what do you do, Mr. McCarthy?—A. When you challenge him?

Q. Yes.—A. Say, I challenge the vote of such a name, with his address, on the ground of illegal registration.

Q. What else do you do?—A. That is about all you have to do.

Q. Is that all you have to do?—A. That is about it.

Q. Is that all you did?—A. No.

Q. Tell me all you did in challenging a vote?—A. The ballot was going to be cast and the warden would hold it up——

Q. Tell me all you did.—A. That is all I did.

Q. I understand all you did was say, "I challenge this man's vote because he does not live at the place he says?"—A. That is about it.

Q. Well, did you do anything else?—A. No.

Q. Didn't you have to sign the ballot yourself?—A. They wouldn't accept any of the challenge.

Q. Who was that?—A. The warden and the officers.

Q. Let us take the case of Kane; did you write your name on Kane's ballot?—A. No, sir; it was not accepted. I did not get a chance, anyway.

Q. You didn't actually challenge Mr. Kane's vote? You simply said, "I challenge," but you didn't go through the formalities?—A. Couldn't, for it was not accepted.

Q. There was a policeman there, wasn't there?—A. Yes.

Q. Two policemen there?—A. I believe there was.

Q. And those two policemen were there when you challenged that vote, weren't they?—A. Yes.

Q. When the warden wouldn't let you go through the other formalities, didn't you say anything to the police officer?—A. One police officer was standing away up at the door.

Q. You didn't say anything to the police officer?—A. Conditions made it impossible.

Q. Will you please answer my question? Did you or didn't you?

Mr. O'CONNELL. I think he has answered the question.

Mr. CALLAHAN. The young man is all right. Let him answer the question.

Mr. O'CONNELL. You bet he is all right.

Q. Go ahead, young man, and tell us. Did you appeal to the police officer?—

A. I did not.

Q. Why didn't you?—A. Because I couldn't get near enough to him.

Q. There were two of them there?—A. One was outside there and one inside.

Mr. O'CONNELL. Please give the witness a chance to answer without interrupting.

Notary BERMAN. Have you answered the question as to why you didn't?

A. One was inside and the other was at the head of the stairs. I was afraid to go to the head of the stairs, because some of the men who were lined up against the wall would take a punch at me.

Q. At any time this morning did those men say or do anything to you?—

A. Yes.

Q. Weren't you inside all the time?—A. Yes.

Q. From 6 o'clock?—A. No.

Q. What time did you get there?—A. Half past 9 or 10 o'clock.

Q. And what time did you leave there?—A. Very shortly after, perhaps an hour afterwards.

Q. You were inside all the time, weren't you?—A. Yes.

Q. The men in the corridor said nothing to you?—A. Yes; they did.

Q. From the corridor?—A. No; it is all one cellar down there. The cellar of the schoolhouse.

Q. I thought you spoke about the corridor?—A. I said nothing about a corridor.

Q. What did you say about the men who were lined up?—A. About the wall.

Q. Let us go back a little. You said when you got there first with this list of names you went to get near the rail, as you call it?—A. Yes.

Q. And somebody protested?—A. Yes, sir.

Q. And they appealed to the police officer and you moved away?—A. They didn't appeal to the police officer.

Q. Did the police officer come and move you away?—A. No, sir.

Q. The warden moved you away?—A. He requested me to move.

Q. And you did move?—A. Yes.

Q. There was someone of this gang, this other gang there, you said, was keeping a list?—A. I didn't say "gang."

Q. There was somebody keeping a list for somebody else?—A. There was.

Q. And you said you knew him?—A. I did not.

Q. You said you knew he was one of the opposition?—A. He was.

Q. How did you know that?—A. Because he was the one who objected to my standing there at the rail.

Q. And then you objected to him, didn't you?—A. No.

Q. Somebody objected to him?—A. Not to him.

Q. He was moved back, wasn't he?—A. No, sir.

Q. Didn't you tell your attorney a few minutes ago that he was moved back three feet?—A. Not that man you refer to.

Q. What man was moved back?—A. The man who took the check list from the man who objected to my standing at the rail.

Q. He was taking the other man's place?—A. Yes.

Q. And then he was moved back?—A. That is it.

Q. You weren't struck there, were you?—A. Where?

Q. In that voting place?—A. I was not struck a blow; no.

Q. You say somebody tried to grab your check list?—A. Not somebody; this Lee man.

Q. This man named Lee?—A. Yes.

Q. Was that the man who was arrested?—A. Yes.

Q. And when you were coming down the street on coming out of the station house somebody came from behind and struck you?—A. Yes.

Q. You didn't know who that was?—A. I did know a day afterwards. I know he is called Shingers. I think he only came down there a short time before the election.

Q. Did you ever find out the name of the man who struck you?—A. I did.

Q. Did you complain to the police?—A. No.

Q. Did you ever tell anybody that it was that man?—A. Yes.

Q. You never went to the police station?—A. No, sir.

Q. Never told a police officer?—A. No.

Q. Never had a mark actually, did you?—A. No.

Q. Where did he strike you?—A. In the jaw [pointing to the chin]. It was a little bit sore, but was not blackened up.

Q. Never any mark there?—A. No.

Q. You are sure this wasn't an imaginary blow?—A. I know when I am hit, as you would probably.

Q. Were you instructed as to the formalities in challenging a vote?—A. I was.

Q. By whom?—A. Somebody there in the office, in Mr. Kane's office.

Q. You now say that you didn't actually challenge any vote?—A. I did not.

Redirect by Mr. O'CONNELL:

Q. You went so far as you could in your challenge?—A. I did.

Q. You called the warden's attention to the fact that the man was illegally registered and you desired as a citizen to protest and challenge his right to vote?—A. That is it.

Q. And this warden refused to accept your challenge?—A. Yes.

Q. And you repeated that four or five times?—A. Yes.

Q. And then this affair took place by which you were taken out of the ward-room by the police officer at the police officer's warning to you that you had better come out rather than be assaulted?—A. Yes.

Rebuttal by Mr. CALLAHAN:

Q. This is election day?—A. Yes.

Q. And ward 5, what precinct?—A. Four, on Norman Street.

Q. Known as the Washington School?—A. Yes, sir.

JAMES JOSEPH MCCARTHY.

JOHN JOSEPH CALLAHAN, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. John Joseph Callahan.

Q. Where do you live?—A. No. 38 East Dedham Street.

Q. Your position?—A. Salesman.

Q. You vote in ward 5?—A. Ward 6.

Q. Were you present at the hearing before the ballot law commission?—A. Yes, sir.

Q. Describe the situation as it was permitted to prevail outside the doors of the Ballot Law Commission while the hearings were going on in reference to the protest of Congressman Tague against Mr. Fitzgerald's name going on the ballot as Democratic nominee?—A. I was sitting in the room where the Ballot Law Commission was sitting and I saw a young man named Stone come in. He said he had been assaulted by someone on the outside. Mr. Goodwin went to the door and four or five young men who looked to me like hard characters surrounded Mr. Goodwin. I immediately stepped over there and at the time Senator Fitzgerald came up to me and said "You will get your block knocked off if you interfere in this case." He used quite a lot of profanity, and I walked back to my seat.

Q. His manner toward you was threatening?—A. Was very threatening, indeed.

Q. Describe what he said?—A. Several of his young friends came on one side of me and I stepped back toward the wall.

Q. Tell us what he said?—A. Mr. Fitzgerald used quite a lot of profanity to me in reference to my testifying at the case.

Q. What did he call you?—A. He said I was an informer.

Q. And did he say what would happen to you?—A. Said I would get my block knocked off if I testified at the hearing.

Q. How many men were gathered around outside of the hearing room door?—A. I should say there was probably—might have been 35 or 40 stooled outside the door, and around the corridor.

Q. So that a witness had to pass this group of men?—A. Yes.

Q. Whether or not they were talking or addressing those those who came into the room and stopping them?—A. Yes, sir.

Q. Did you see Mr. Stone when he came into the room?—A. Yes.

Q. Describe the condition of his face and his personal appearance?—A. He was bleeding at the mouth when he came into the room and he had his hand up to his face with his handkerchief.

Q. Wether or not his clothes were torn?—A. I didn't notice.

Q. Did you hear me protest to the commission and have them listen to his story?—A. I heard you say that Mr. Stone had been assaulted and then they sent for the State police.

Q. That was the following day?—A. Yes.

Q. But they did nothing that night?—A. Not to my knowledge.

Q. Did you know the political conditions existing in Ward 6 on the day of the primaries? Were you familiar with the situation there?—A. Somewhat; yes.

Q. Did you know the Tommy Donovan referred to in the testimony of Mr. ———, yesterday?—A. He is president of the Pelham Club, a political organization in the South End.

Q. Who were they supporting for Congress?—A. Mr. John T. Fitzgerald.

Q. Tommy Donovan is the leader of the Pelham Club?—A. eYs, sir; of that organization.

Q. You knew that Mr. Donovan presided at some of Mr. Fitzgerald's rallies in that ward?—A. Yes, sir.

Cross-examination:

Q. As a matter of fact, you didn't see any disorder in the corridor there in the statehouse, did you?—A. Yes; I did.

Q. You won't say that you saw any witnesses prevented from coming there, would you?—A. I saw several witnesses stopped as they entered.

Q. Can you tell us the name of any one witness prevented from going there?—A. I could not tell you the names, but the gentleman who stopped one of the witnesses was an Italian fellow.

Q. He spoke to him and then the witness proceeded on his way into the hearing?—A. Yes, sir.

Q. You were a sort of a lookout there for Mr. Tague in the corridor?—A. No.

Q. Were you out there at all?—A. To have a smoke while waiting to be called.

Q. Mr. Kane was there a great deal with you?—A. Probably one day Mr. Kane was there with me.

Q. And I was there with you both days myself?—A. You were there with me one day.

Q. And we stood on the steps talking things over in a casual sort of a way?—A. Yes.

Q. There was no disorder there then?—A. Not that day because the State police was there.

Q. Except for the incident of young Stone, you do not know of any other disorder that was there, do you?—A. Other than Mr. Fitzgerald threatening me; no.

Q. Mr. Fitzgerald threatened you, you say?—A. Yes.

Q. Outside of those two incidents, you can not recall any disorder there whatever, can you?—A. No; other than having them stop witnesses as they came in.

Q. What do you mean—do you mean that somebody went up and spoke with the men coming in?—A. Yes.

Q. Didn't put hands on them?—A. No.

Q. He didn't try to prevent him physically from going into the room?—A. No.

Q. And you can not say that he even tried to persuade the men from going into the room, can you?—A. No.

Q. Didn't hear any of the conversation?—A. No.

Q. So that for all you can say he might have said, "How do you do, are you here as a witness?" and then he proceeded into the room so far as you know?—A. Yes.

Q. As long as you are familiar with the conditions in ward 6 on primary day, I want you to tell us whether or not there was a very active and very bitter contest for House of Representatives?—A. No; I wouldn't say it was a bitter contest.

Q. It was a lively contest?—A. No; I wouldn't call it a lively contest.

Q. There were 12 candidates, weren't there?—A. Twelve candidates; yes.

Q. And six or seven of them were very active old-time campaigners?—A. You wouldn't call it that, Mr. Callahan.

Q. The two members of the legislature were candidates for renomination?—A. Yes.

Q. And there were four or five other active opponents?—A. You wouldn't call them active opponents because they had been out of the field and they weren't strong men.

Q. As a matter of fact one of the men was defeated in that contest and a new member was nominated that day?—A. Yes.

Q. You went around from booth to booth that day in ward 6, didn't you?—A. Yes.

Q. And you noticed that at each booth they had precinct workers for these candidates for the legislature?—A. Yes.

Q. And was there general activity at each one of these booths?—A. Yes.

Q. A lot of hustling and bustling to get men to vote for the candidates for the House of Representatives, that is so, isn't it?—A. I could not say that was so because I didn't see a great deal of activity down about there.

Q. Do you mean to say that at those booths you didn't see a great deal of hustling for the candidates for the legislature?—A. Not as much as I have in previous years.

Q. When can you remember a more active contest in ward 6?—A. When you were a candidate for the legislature there was quite an active contest up there.

Q. That was ward 9 and years ago?—A. That is the same ward.

Q. Wasn't this contest on election day—I had my excitement the night before—but this election day, wasn't it as a matter of fact a very lively contest?—A. If you could call it lively when three candidates were sitting in the precinct in the booth.

Q. Three members of the legislature?—A. The three members who were aspiring to go to the legislature. Mr. Cray was a member of the legislature.

Q. You saw Mr. Wassersug, did you?—A. I don't know Mr. Wassersug.

Q. Mr. Donovan was the active leader for Mr. Fitzgerald in that ward?—A. Yes.

Q. Do you know this young man Rumsey who testified here the other day?—A. No; I do not.

Q. Was there anything else said to you, Mr. Callahan, besides what Mr. Fitzgerald said to you during all the days you were up at the hearing?—A. Other insulting remarks would be passed as I passed through the corridor if I went out for a smoke.

Q. You don't know any particular person who did that?—A. No; I don't know who they were.

Q. How old are you?—A. Thirty-one, sir.

Q. And what is your height?—A. About 5 feet 10½ inches.

Q. How much do you weigh?—A. Two hundred and five pounds.

Q. You weren't afraid of any man who was up there?—A. I am not afraid of any individual man, but when there are a lot of thugs in the neighborhood, you are somewhat afraid.

Redirect examination by Mr. O'CONNELL:

Q. Did these men appear to be a lot of thugs?—A. A young man from the west end who worked with me on State Street, I don't know his name, said three of them were ex-pugilists.

JOHN JOSEPH CALLAHAN.

HERBERT H. BOYNTON, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Herbert H. Boynton.

Q. You are the assistant secretary of state of the Commonwealth of Massachusetts?—A. I am.

Q. And as such assistant secretary, your particular duties are those of attending to the election laws of the Commonwealth of Massachusetts?—A. Yes.

Q. As representing the secretary of the State of Massachusetts, did you send to the board of election commissioners of the city of Boston a list of those men who had been inducted into the Army?—A. The term induction was not applied to the first list. We sent a list of all whom we knew were in the military or naval service.

Q. Have you the letter that accompanied that communication?—A. I have.

Mr. O'CONNELL. I offer this (letter). This was accompanying it, Mr. Callahan, a blank to be filled out in accordance with the terms of the letter.

(Letter marked "Exhibit 17." Blank accompanying letter marked "Exhibit 17-A." Letter (Exhibit 17) read by Mr. O'Connell.)

Q. This is the blank to be signed and sent back?—A. Yes, sir.

Q. Were various lists sent to the election commissioners of the city of Boston?—A. Yes.

Q. And they were kept informed as to the men who had been taken into the Army or Navy?—A. So far as we received them from The Adjutant General.

Q. Have you any idea how many times you sent these communications?—A. Only one communication. The list followed as fast as we could make them up. The lists were made up in the form of naval service, Army service, naval reserve, and National Guard.

Q. So that the election commissioners of the city of Boston had a list given to them notifying them who had been called into the Army, or into the Navy, for their information?—A. Yes, sir.

Q. And they took that list or lists and after a time returned them to you?—A. Yes.

Q. And you have in your office the lists returned to you?—A. We have.

Q. Checked off by the election commissioners of the city of Boston for your office?—A. Yes.

Q. Giving them at the same opportunity to make the same checking in their office?—A. Yes, sir.

Q. And there could be no excuse for their not——

Mr. CALLAHAN. This has gone far enough. Why don't you let the witness testify? You are arguing, he isn't testifying. Let the judge pass on it.

Notary BERMAN. Proceed, gentlemen.

Q. Now, Mr. Boynton, do you know how many names were sent to the election commissioners of the city of Boston?—A. From this list?

Q. Yes.—A. No.

Q. Has it been estimated?—A. No.

Q. Are you able to estimate it at all?—A. No.

Q. But it is a great many hundreds?—A. I couldn't say.

Mr. CALLAHAN. We are not concerned with the whole city of Boston.

Mr. O'CONNELL. Your district was just as patriotic as any in Boston? There wasn't any district in the country more patriotic than that.

Q. You couldn't approximate it now, could you?—A. No.

Q. Have you a sample of such a list as was sent out?

(Witness produces sample list.)

Q. This being page 1 indicated that there were 28 names or more on the list; were the other papers about the same size?—A. They were the same size paper, I couldn't tell how many names.

Mr. CALLAHAN. What list do you refer to?

Mr. O'CONNELL. List I was showing to the witness that he was just showing to me. I suppose you would accept the fact that William Bennett, and Borset, Bullfinch Street, and William Brown, of Marginal Street, and that there are two or three here from East Boston. East Boston is in your district and Charlestown is in your district.

Mr. CALLAHAN. Please give the number of names in our district?

Q. That is an official paper belonging to the secretary of state?—A. Yes.

Q. You don't want to leave those papers here? Would it be best to get—what would be the most convenient form, Mr. Boynton, to have that?

Mr. CALLAHAN. I submit that the witness can not advise counsel how he can get in evidence.

Q. What would be the most convenient form to have those names presented so that it would call for the least criticism and from the representative of Mr. Fitzgerald?

Mr. CALLAHAN. I object to that characterization.

Mr. O'CONNELL. Well, cross it out. I would like to introduce that whole list and with that in mind——

WITNESS. May I make a statement?

Mr. CALLAHAN. I would suggest that you answer counsel's questions.

WITNESS. I only hoped to stop the question of furnishing a copy on the ground that the secretary's office is required to furnish copies of every official record in his possession, a record which is required by law. This was not required by law. It was a matter of convenience we sent out to discover how many persons we should send applications to. Consequently, I question the right to furnish what we would consider authenticated copies of those papers.

Q. Under those circumstances we had better ask you to bring in all those lists, Mr. Boynton, so that they may be available for whatever use Mr. Callahan may want to make of them and in order that our record may be clear so far as we are concerned. He probably will not be satisfied with a single sheet, and I also ask you to bring down all the sheets so it can be decided how many he wants to put into the records.—A. I question the advisability. If you will make written request on the secretary's office, if we deem it necessary we will submit it to the Attorney General's Office.

Q. Can't it be arranged so that you can come back here this afternoon and bring those papers with you?—A. I can, if you want to go to the office and make copies. They are available to you, but I doubt if the Secretary's office can afford to be brought into this matter this way. They are not official records. If you can show us the rule which requires us to furnish matters which are not official records in our office, we will be glad to do so.

Notary BERMAN. Under the statutes all papers may be necessary.

WITNESS. All papers furnished are official records.

Notary BERMAN. You may summon all papers you may feel necessary to prove your cause from any official of this Commonwealth.

Mr. O'CONNELL. That is what I understand the law to be. It gives the notary full power to require you to bring—

Mr. CALLAHAN. What is this, a joy feast?

Q. We will put that aside for the moment and see if we can not come to some agreement with which it will be easy for everybody to cooperate. There was a very substantial change in the character of the election laws of last year that resulted in disarranging the election customs that had prevailed in the past. Will you be good enough to explain in detail just what it was and what it resulted in?

Mr. CALLAHAN. I object to that. Is it clear in your mind what change the gentleman refers to, Mr. Boynton?

A. No.

Q. As a result of the passing of the absentee voting law by the legislature last year several changes were brought about in the dates of filing papers for candidacy for office, was there not?—A. Yes.

Q. Will you please explain what effect those changes had?

Mr. CALLAHAN. I submit that the witness can only testify as to what is the law.

A. If you will specify the change to which you refer, I will be glad to give it to you, but you are talking about the whole subject of the law.

Q. Tell us in brief, first, what the absentee voting law was?

Mr. CALLAHAN. Can you tell us that, Mr. Boynton?

A. No.

Q. Read it then, and we will see?—A. I will submit to the counsel the law itself.

Mr. CALLAHAN. I would suggest also that counsel could read it if you do not like reading it.

Q. What is the chapter of this absentee voting law? What is its designation?—A. Chapter 293 as amended by 295, acts of 1918.

Q. What part of the law did it amend, particularly so far as candidacies were concerned and the filing of papers for candidacy?—A. I can not answer that question, sir.

Q. Let me look at the law. [Witness passes pamphlet to Mr. O'Connell.]

Mr. O'CONNELL. At this time we will introduce this chapter.

(Said chapter marked "Exhibit 18.")

Mr. O'CONNELL. I now introduce section 33, which reads as follows:

"Chapter 835 of the acts of 1913 is hereby amended by striking out section 203 and substituting therefor the following:

"SEC. 203. Certificates of nomination and nomination papers of all candidates for offices to be filled by voters of the Commonwealth and the Representatives in Congress shall be filed on or before the sixth Thursday preceding the day of election; but if there is a special election to fill any State office, certificates of nomination shall be filed on or before the twelfth day, and nomination papers on or before the eleventh day, preceding the date of such election, etc.'"

(Said section marked "Exhibit 19.")

Q. Can you explain briefly the effect of this amendment on the law as it existed prior to that?—A. Better read the section there.

Notary BERMAN. Can you answer the question, or can't you?

WITNESS. No; it is a question of law, and I do not think it is a question of interrogation.

Q. Prior to the passing of this law when must a nomination paper be filed for an independent candidate?—A. I have given him the law, and he is able to read it.

Q. Don't you know?—A. It is not the law at the present time.

Q. I am asking you what was the law prior to that?—A. I am submitting to you the law prior to that.

Notary BERMAN. I think the witness is bound to answer to the best of his knowledge. If you don't know, you can say you don't know.

Mr. CALLAHAN. This witness is only here to testify as to facts. He does not qualify as an expert of law and he is not required to testify as to the law.

Notary BERMAN. The witness is bound to answer questions that are asked of him to the best of his knowledge.

WITNESS. I will say no.

Q. You don't know the last day for filing nomination papers for independent candidates?—A. I don't say that.

Q. Do you know what was the last day for filing papers for State or national offices prior to that amendment?—A. I do know.

Q. What day was it?—A. I submitted the law to you.

Q. Won't you tell us the date in order that the record may have it?—A. In order that the record may have it?

Q. Yes?—A. Section 203, of chapter 835, which is amended, provides that nomination papers shall be filed on or before the fourth Monday preceding the day of the election.

Q. And that would have made it some time in October, necessarily?—A. This is all a matter of law, and I can not understand your ruling that I should read the law and answer these questions.

Q. This is all being typed for the use of the congressional commission.—A. Then submit them a certified copy of the law.

Q. I shall have to do it according to the way the law wants it done, and not according to your wishes. I am helpless in this matter and so are you. So that the congressional committee may understand the situation, I would like to have you help us as much as you can.

Mr. CALLAHAN. There are statutes and regulations gotten out by the courts of the State, all of which are official, and all of which can be submitted here in the proper way. We don't want this man's opinion. He doesn't have to testify to anything——

Notary BERMAN. The witness must answer questions asked of him. If he can not answer he can say so.

Mr. CALLAHAN. He has no right to ask him to give opinion evidence.

Mr. O'CONNELL. I am not asking him for any opinion. If you will proceed Mr. Boynton.

Q. Repeating in substance, the question is this: The effect of the statute, which you have just answered, which existed prior to the passage of this absentee voting law, was that an independent candidate for State or national offices could be obtained by filing papers sometime in October, isn't that so?

Mr. CALLAHAN. I object to that, and it can be shown by the official documents and the law. I pray your honor's judgment.

Notary BERMAN. Note Mr. Callahan's objection, and you may answer the question.

A. I don't think it is within the jurisdiction of this court to ask me opinions on law or as to the law itself, where it appears as a law. It can be submitted as evidence by certified copies.

Notary BERMAN. You are asked to answer the questions Mr. O'Connell asks of you. If you can not answer it, don't answer it.

Mr. CALLAHAN. Where it relates to the effect of the law——

Notary BERMAN. The witness can say he can not answer it, or he can answer it. Mr. O'Connell is entitled to ask the question.

Q. Mr. Boynton, in order to help you out of this dilemma, which you seem to have gotten yourself into by the advice of Mr. Callahan and your misunderstanding, let me ask you this question:

Notary BERMAN. You withdraw the former question?

Mr. O'CONNELL. For the time being.

Q. Prior to the passage of this absentee voting law, could a man who wished to be an independent candidate for Congress file his papers sometime in October?

Mr. CALLAHAN. I object to that. I say that is a question of law and the witness need not answer it. You can get it by the statutes themselves.

Notary BERMAN. I think it is a fair question and ought to be answered if can be.

Mr. CALLAHAN. I suggest it is open to the same objection. The statutes are there and can be admitted as evidence.

Mr. O'CONNELL. Please ask the witness to proceed.

WITNESS. I am perfectly willing to tell the date which the law provides, but whether that would be in October or July, I can not tell you.

Q. Tell me the date?—A. The date on which that certificate can be filed is given in the law. The date you can find in the calendar.

Mr. CALLAHAN. I suggest that it be read into the record.

WITNESS. Chapter 835, of the acts of 1913, section 203, prior to its amendment by chapter 293, acts of 1918.

Q. And what was that date according to the statute?—A. According to which statute?

Q. Which you have just read?—A. This is the original law.

Q. What is the date, please?—A. Date of the act?

Q. Date of the law on which the papers must be filed?—A. Chapter 835, acts 19—

Q. Won't you be good enough to give us the date when the papers should be filed?—A. I understood you wanted me to read this section.

Q. All right; do it that way if you wish.

Mr. CALLAHAN. Isn't that a matter of computation?

A. Absolutely. Nomination papers of all candidates for offices to be filled at a State election shall be filed on the fourth Monday preceding the election.

Q. State elections in Massachusetts are always held on the first Tuesday in November?—A. After the first Monday.

Q. And on this last year the day of our State election was November 5.—A. State election was November 5.

Q. So that if there had been no change in the law as stated in that absentee voting law you have quoted, the last day for filing papers for independent candidates for Congress would have been the fourth Monday prior to November 5?—A. The fourth Monday prior to November 5.

Q. Which would be October 7? I show you a calendar?—A. Do I need to make that calculation.

Notary BERMAN. Your computation, Mr. O'Connell, is just as good as the witnesses.

Q. For the purpose of the record, I want to get him to tell me. Tell him to answer it, or not.

Notary BERMAN. You may put it in.

Q. Is it right that it would be October 7 under the law last year?

Mr. CALLAHAN. I don't think you have to say whether his computation is correct or not.

Mr. O'CONNELL. And I don't think you have to take any law from Mr. Callahan. I don't think you have to look at Mr. Callahan to get any information as to whether you need to answer or not. You seem to be affected by Mr. Callahan's telling you what the law is. His Honor will tell you what the law is.

WITNESS. Mr. Callahan is in front of me the same as you are.

Q. But you look at him every time before you answer, and if you don't care to say to me that my statement that the fourth Monday before November 5 of 1918, was October 7, is correct, I would like to know it. Do you or do you not care to say that?—A. I don't care to say it.

Q. Then I call your attention to the fact at this time that according to the calendar of 1918, the fourth Monday prior to November 5, election day, was October 7. Now, Mr. Boynton, what was the last date this year under the law for filing names for certification for independent candidates for Congress?

Mr. CALLAHAN. That I submit is a part of the law and ought to be read in.

Notary BERMAN. You may answer that question.

A. That is a matter of record and you have that. The last day for filing with the secretary of the Commonwealth of candidates was September 26, being the sixth Thursday before the day of election as required by law.

Q. And names that are furnished to you for certification must be certified by the election commissioners?—A. Prior to that time.

Q. How many days prior to that time?—A. Just prior to that time. They can file papers immediately upon their being certified. You are confused in your questions—

Q. No; I am not either. This card, being Exhibit 11, is one issued by your office?—A. Yes.

Q. And that states as follows: The last day for filing nomination papers in State elections for certificates of names with election commissioners in Boston or registrars of voters in other cities and towns, so that the last day in which a man could furnish papers to be certified for an independent candidate in compliance with the law was on September 20?—A. According to the calendar, yes.

Q. According to the slip issued by your office?—A. I am speaking of that as the calendar.

Q. This political calendar issued by the office of the secretary of state?—A. Yes.

Q. And the primary day last year was September 24?—A. Yes; the 24th.

Q. So the effect of the absentee voting law was that if a man wished to be an independent candidate for Congress, he would have to file his papers for certification on or before September 20?

Mr. CALLAHAN. I object to that. It is an exhibit. The thing speaks for itself.

Mr. O'CONNELL. Will you please ask him to answer that?—A. According to the calendar, yes.

Q. And according to the law. This calendar is your preparation, a condensation of the election laws as they prevailed last year?

Mr. CALLAHAN. It is nothing like a condensation of the law. I submit now here and I want it to go on the record. I want you to understand it, Mr. Boynton and Mr. O'Connell, that the attorney here sitting for me has no right to compel a witness to answer. He is sitting here simply to take testimony and sign it. That is the thing you insisted on the preceding days and I am going to insist upon it now.

Notary BERMAN. I want it distinctly understood by Mr. Callahan and Mr. O'Connell that such rules as I desire to make will be made according to the powers vested in me, and Mr. Callahan has no right to make the statement as to what my powers are. You may proceed.

A. Yes, sir.

Q. Coming back, Mr. Boynton, to those lists of names sent by your office to the election commissioners of Boston of the names of men in the Army and Navy, after they had been returned to you did Commissioner Murphy of the Boston election commission call on you either by telephone or otherwise to let him have the use of that list again?

Mr. CALLAHAN. I object to that.

Notary BERMAN. You may answer it if you know.

A. I don't know.

Q. Did anybody representing the Boston election commission do so?—A. Call on me?

Q. Or telephone to you?—A. I can not answer as to a telephone communication.

Q. By that what do you mean?—A. That it would be impossible for me to recognize the person at the other end of the phone.

Q. Did somebody representing themselves to be Commissioner Murphy of the Boston election commission phone to you and ask you if you could let him have that list?

Mr. CALLAHAN. I object to that.

Notary BERMAN. You may answer that question.

A. Yes.

Q. In reference to the furnishing of ballots for the Commonwealth of Massachusetts to be used on election day, in order that the record may be understood, the law requires that all ballots must be prepared under the direction of the secretary of state and furnished by him to the various cities and towns for primaries and elections, does it not?—A. Yes.

Q. And that was done last year, was it not?—A. Yes.

Q. And nobody has any right to give orders to anybody for the printing of ballots unless the order comes from the office of the secretary of state, signed either by the secretary or by yourself?—A. No.

Q. Has anybody else any authority in the office other than you and the secretary of state?—A. No.

Q. The custom of furnishing ballots for primary and election and the number that you ascertain to order is the result of a communication sent to your office by the various election commissioners and registrars of voters throughout the State?—A. May I answer that in my own way?

Q. Yes.—A. The law provides that the secretary shall furnish such number of ballots as he deems necessary. In order to determine the proper number without exceeding the number which will be actually used, we take the number of registered votes, the number of persons enrolled, add the enrolled voters together and subtract it from the number of registered voters and add the number of party ballots furnished. The city of Boston informed us they had an excessive number of ballots. Upon that we asked them to furnish us with the number that would be necessary and upon their certification we furnished the number which they requested.

Q. And during primary election day, were you informed from the State printer that he had been requested by Commissioner Berlen, of Boston, to print for him 1,000 extra ballots for use in ward 5?—A. I was.

Q. The State printer told you he would not do it without your approval?—A. He asked for advice.

Q. And you gave him the advice in accordance with the law?—A. I gave him the order to print the ballots and deliver them to the commissioners.

Q. Did you ever know of a request prior to this when a request was made to anybody other than to your office?

Mr. CALLAHAN. I object.

Notary BERMAN. If he knows.

A. No; I don't know.

Q. This was the first time an attempt was ever made to your knowledge to have ballots printed other than through the regular method of a request in accordance with the law through your office?

Mr. CALLAHAN. He has said he didn't know of any other.

Mr. O'CONNELL. Did you answer that?

Mr. CALLAHAN. You are forming conclusions on his other answer that are entirely improper.

Mr. O'CONNELL. I don't want to mislead Mr. Boynton and I am sure I am not going to confuse him.

Mr. CALLAHAN. You have no right to make an inaccurate conclusion.

Mr. O'CONNELL. I will ask the question again and do it in order to clear up any doubt that might be in anyone's mind.

Q. Prior to this occasion of an attempt to get votes by the State printer on the primary of September 24, 1918, had you ever known at any other time of any attempt to get votes or ballots printed, except through your office.—A. No.

Q. Before leaving, I would like to have some arrangements made by which I can incorporate into this record the number of names of soldiers and sailors and national guardsmen whose names had been furnished during the summer of 1918 to the election commissioners of the city of Boston.

Mr. CALLAHAN. I object to it.

Mr. O'CONNELL. And if Mr. Callahan objects to that being done, I shall have to ask that those names be brought down by Mr. Boynton in order that the stenographers will copy them. I understand you object?

Mr. CALLAHAN. I don't know as you have any right to compel Mr. Boynton to do that.

Notary BERMAN. That is something you must decide for yourself—what you want done; prepare summons and proper requests.

Mr. O'CONNELL. I will ask you to come back here and bring with you all papers—

Mr. CALLAHAN. It is not his duty—

Mr. O'CONNELL. It is his duty to cooperate with everybody so we might have the right man sitting in Congress who was elected. You are trying to tell this witness what his duty is.

A. We have two lists. We have a carbon list which hasn't the checked names. We have another list which purports to be a list checked by the election commissioner, which is signed. To facilitate matters if it is simply a question of the number of persons in the city of Boston in the service, the State will be willing to present to you for examination the carbon list which was furnished.

Q. That is perfectly satisfactory so far as I am concerned. Will you do that?—A. Yes.

Mr. O'CONNELL. I will then offer that as an exhibit and so notify you.

Q. (Mr. CALLAHAN). I understand that this list is not an official list?—A. Not being required by law.

Questions by Mr. O'CONNELL:

Q. Would your records show, Mr. Boynton, how long the various commissioners of the city of Boston had kept the names that were furnished?—A. I think not.

Q. Or any letters accompanying the return of the names to you?—A. I think not. They were simply sent back by messenger. I might add that there was serious delay in returning those lists.

Q. So they had those lists some time?—A. It interfered with the work of the office for which we were somewhat criticized.

Cross examination by Mr. CALLAHAN:

Q. Are those lists under your immediate personal supervision?—A. No; they are under——

Q. And when your department sent those lists to the election commissioner of Boston they weren't sent over your signature, were they?—A. No.

Q. Where did you get those lists of names from?—A. The Adjutant General's office.

Q. And if there is any list that is official it would be a list provided by The Adjutant General's office?—A. It seems to me so.

Q. That is a political calendar which your department issues, and that is the one that was issued last year, 1918?—A. Yes.

Q. And that contains dates arranged by you having charge of the election department of the secretary of state's office?—A. Yes.

Q. Will you indicate on that calendar, please, the date on which objections to the names of candidates were to be filed?—A. September 30, 5 p. m.

Q. Do objections to the names of candidates come before you personally?—A. Yes.

Q. And when an objection is made, Mr. Boynton, have you some stamp or process in the office so that the time is designated accurately when they are received?—A. Yes.

Q. And have you in your possession, or did you have in your possession before the 30th of September, objections to the name of Mr. Fitzgerald filed either by Mr. Tague or his counsel?—A. I did not.

Q. And if you did have those objections they would be filed and a stamp would be on them indicating that they were filed prior to 5 p. m. on that day?—A. Yes.

Q. Do you recall, Mr. Boynton, after that day that either Mr. Tague or his counsel or both of them, and after the day required by law to file those objections, that either Mr. Tague or Mr. O'Connell, his attorney, or both of them came together to your office and filed objections to the name of Mr. Fitzgerald, or handed you any objection to his name?—A. Yes.

Q. Did you place a stamp on those objections, Mr. Boynton, indicating the time they were received?—A. I think not.

Q. And will you please tell us why you didn't put a stamp on those objections?—A. The time having elapsed we accepted them and, as I told the parties who filed them, we would submit them to the ballot law commission for their decision.

Q. So that as far as these objections were concerned, Mr. Boynton, they were filed after the time required by statute?—A. Yes.

Q. Did you have any subsequent conversation with Mr. Tague or Mr. O'Connell, or any other conversation at that time relating to these objections?—A. You mean my statement to them at that time? I said, "You realize this is too late to file these objections," and as I recall it the statement was made, "We are simply doing this to protect our rights." I said, "In that case, we will accept the papers and submit them to the ballot law commission for their decision."

Q. Can you tell us about what date you received these objections from Mr. Tague and Mr. O'Connell?—A. To my best memory, it was filed either October 3 or 4.

Q. And will you tell us now whether it was Mr. Tague or Mr. O'Connell, or both of them, that came with that petition?—A. My recollection is that it was Mr. Tague and Mr. Goodwin.

(Ten minutes recess.)

Q. Is this the letter you sent, Mr. Boynton?—A. To the election commissioners?

Q. Yes.—A. Yes; it is.

Q. Do I understand that was a letter sent by you?—A. It was a circular letter.

Q. Exactly?—A. That is a copy of the circular.

Q. And over the signature of Mr. Langtry—A. Mr. Langtry; yes.

Q. Do I understand this is the list that accompanied that letter?—A. Yes; that is a blank list.

Q. Was there anything else that accompanied this letter?—A. No.

Q. Just this letter and this blank list?—A. Yes.

Q. I want to call your attention that in this letter it says: "Please cause to be checked off on this list as received those names which appear upon your voting lists as qualified voters and return each list as soon as checked."

Now when you sent this letter and this blank you didn't send a list?—A. No. Pardon me I am submitting this list as an exhibit. This is not a list that was sent. We sent four lists of names—the Army, Navy, Reserve Corps, the National Guards. That was simply a form.

Q. Then you didn't send this?—A. Not a blank slip. We sent a list of names submitted by The Adjutant General.

Q. And you haven't those lists here?—No.

Q. Those lists are private lists, I understand?

Mr. O'CONNELL. Nothing that the State has is private.

Q. Those are private lists, aren't they?—A. That is considering they are not required by law, they are not official?

Q. There is no law which requires you to keep those lists, and by the same token there is no law that requires the election commissioners to return those lists?—No.

Q. I suppose it was simply a matter of courtesy or accommodation?—A. Yes, sir.

Q. When you received the petition objecting to Mr. Fitzgerald's nomination, did you turn that over immediately to the ballot law commission?—A. I don't recall.

Q. Did you have any consultation with the ballot law commission relating to it?—A. Over the phone, yes.

Q. And did you state at that time to the ballot law commission that the petition had been filed late?—A. Yes.

Q. So that the ballot law commission took this thing up knowing at the start that the petition had been filed late and not as required by the statute?—(No answer by witness.)

Q. Mr. Boynton, have you a certificate of the supervisors appointed for election day in wards 5 and 6?—A. Yes.

Q. Have you them with you?—A. Yes.

Q. May I see the list for ward 6?—(Mr. Boynton produces list asked for.)

Q. This is an official copy?—A. That is a certified copy.

Q. And that is the seal of the Commonwealth and the signature of Mr. Langtry?—A. Yes.

Q. This contains the list of all the names in both wards of men who were appointed as supervisors?—A. It does.

Q. Will you look at that list, please, and tell us whether or not you find the name of Cornelius Shea or Cornelius J. Shea?—A. I do not.

Q. I would like to offer that in evidence and have it marked as an exhibit. You can leave this here?—A. Yes, sir.

(List above referred to marked "Exhibit 20.")

Q. Have you had or can you get readily, Mr. Boynton, the statute under which supervisors are appointed?—A. Yes, sir. I have it right here. Page 81 you will find it, section 240, chapter 835, of acts of 1913.

Q. And that statute gives the governor the right to appoint supervisors, and these supervisors are in addition to the regular election officers, aren't they?—A. That is my understanding; yes.

Q. Have you at hand the section of the statute, Mr. Boynton, that relates to the powers and duties of the ballot law commission?—A. Pages 71 and 72.

Q. Section 205, Mr. Boynton, relates to the power and authority of the commission?—A. Do you make that as a statement?

Q. You can answer it, yes or no. Will you read that part of the statute, please, just for the record, beginning with "The board," on page 71, section

205, down to here [indicating]?—A. I think the same objection is raised here that was raised at the time by Mr. O'Connell.

Mr. CALLAHAN. I will read it.

"The boards constituted in cities and towns may, at hearings on such objections and questions, summon witnesses, administer oaths, and require the production of books and papers. Witnesses shall be summoned in the same manner, subject to the same fees, and be subject to the same penalties for default as witnesses before the superior court. A summons may be signed, and an oath may be administered by any member of the board, and the decision of a majority of the members thereof shall be final."

Q. Have you in mind now, Mr. Boynton, at what time on election day or primary day, rather, these 1,000 ballots were ordered?—A. At approximately 2 o'clock, between 2 and half past 2—after I returned from lunch.

Q. Has it ever occurred in your experience before that extra ballots have been asked for on election day or primary day?—A. In the city of Boston or elsewhere?

Q. Elsewhere or in the city of Boston?—A. Yes, sir.

Q. Frequently?—A. My best answer to that is when in cases where ballots had not been received and we were required to furnish extra ballots.

Q. I mean additional ballots.—A. No; I don't recall any cases of that.

Redirect examination by Mr. O'CONNELL:

Q. I want to call your attention at this time to that telephone conversation that a man representing himself to be Commissioner Murphy of the election board when he rung up asking for the use of those lists; will you give us the conversation?

Mr. CALLAHAN. I object to that.

Notary BERMAN. If you can remember the conversation, you may answer.

Mr. CALLAHAN. I object to that particularly——

Notary BERMAN. Note Mr. Callahan's objection.

Mr. CALLAHAN. Because the witness has said he doesn't know and could not testify whether it was Mr. Murphy that called him up, and I want to object to it, too, because this is not rebuttal, and I do not think he has any right to put the question.

Mr. O'CONNELL. It will be admitted later on that Mr. Murphy admitted the conversation.

Q. Proceed now, Mr. Boynton.—A. I think, as I stated before, being a telephone conversation I do not wish to cause any imputation on the person who said it was so and so.

Q. Give us the conversation.—A. The imputation is there the same. Unless I could take oath of my best knowledge and belief that it was Mr. Murphy, it would be an imputation which would stand.

Q. Please give us the conversation.

Mr. CALLAHAN. He has told you he doesn't want to give it.

Notary BERMAN. You are asked to give the conversation with this man who said he was Mr. Murphy. It won't effect Mr. Murphy if it wasn't Mr. Murphy. The question may be answered.

Mr. CALLAHAN. Your powers of attestation are going pretty far. You have no right to instruct the witness. Witness can do whatever he chooses.

Q. Proceed, Mr. Boynton.—A. My recollection is this: I had a call on the telephone and was informed it was Commissioner Murphy asking me if I would not furnish to him a list of the names which they had certified. I said, "Do you want this for yourself?" And he said, "Yes." I said, "I can not furnish it." He said, "The commissioners want it." I said "The commissioners had ample time to make copies of the records; they are now in use, and we can not furnish you with the information."

Q. These lists are the lists of soldiers and sailors sent by you to the election commissioners?—A. Yes. Upon receipt of considerable abuse I simply shut off the telephone, and the conversation closed.

Q. Just one or two questions in reference to the sections called to your attention by Mr. Callahan. Calling your attention to section 204 of chapter 835 of the acts of 1913, that section has not been changed, has it?—A. No, sir; it has not.

Q. So that the last day for filing objections to a nomination was, and is 72 hours—A. Week-day hours.

Q. After the last day for filing the nomination papers?—A. Yes.

Q. And before the law was changed that was the fourth Monday before the election day?—A. That, I think, appears of evidence in my former statement.

Q. And after the law was changed and the law to-day is that it is the sixth Monday before election?—A. The sixth Monday.

Mr. CALLAHAN. You don't say that is the law?

Mr. O'CONNELL. That is the law and I will stand on it, and I am certain of it.

WITNESS. I want to detract that. You said Monday, did you not?

Mr. O'CONNELL. Seventy-two hours.

Mr. CALLAHAN. That isn't the law. Seventy-two hours before the last day for filing nomination papers.

Mr. O'CONNELL. Wait until I get through.

Q. It is all contained in section 204 of chapter 835 of the acts of 1913?

Mr. CALLAHAN. We have had acts of 1918 since then.

Mr. O'CONNELL. I am talking about what the law was and is.

WITNESS. You say here it is 72 hours, week-day hours, and then you say it was the fourth Monday.

Q. Yes. As a result of the delay of the Boston election commissioners in making known their finding of the recount asked by Mr. Tague of the primary election result, you didn't receive in the secretary of state's office any certification until after October 3?—A. That is, the number of votes cast?

Q. Yes?—A. The number of votes cast for candidates for Congress in the tenth congressional district, do you mean? [Witness produces paper.]

Mr. O'CONNELL. I would like to introduce this. Any objection to this being put in, Mr. Callahan?

Mr. CALLAHAN. No, put it in.

Mr. O'CONNELL. It is an official record and you do not want it to go out of your possession and I will read this into the record, being admitted by Mr. Callahan.

Q. This is what, Mr. Boynton?—A. Return of votes.

Q. Furnished to you by the election commissioners of the city of Boston?—A. Yes.

Q. And certifying the number of votes cast at the election?—A. Yes.

Q. Have you got the primary there?—A. I haven't the primary.

Q. Is it in the office?—A. I think so.

Q. Could that be obtained?—A. I can give you an attested copy.

Mr. O'CONNELL. Attested copy of the return of the election commissioners may be read into the record?

Mr. CALLAHAN. Yes.

Mr. O'CONNELL. The one for the primary will be furnished and read into the record as the next exhibit.

Mr. O'CONNELL (reading):

"The Commonwealth of Massachusetts: At legal election of the inhabitants of the city of Boston in congressional district 10 qualified to vote for State officers holden on Tuesday next after the first Monday in November, being the 5th day of said month in the year 1918, for the purpose of giving in their votes for a Representative of this Commonwealth from said district in the Sixty-sixth Congress of the United States. All the ballots given in therefore were:

John F. Fitzgerald, of Boston	7, 227
— Welch, of Boston	1, 069
Peter F. Tague, of Boston	6, 997
All others	1
Blanks	794

Total number of votes	16, 088
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Absent voters, Fitzgerald	14
Absent voters, Tague	6

John J. Fitzgerald	7, 227
Peter F. Tague	6, 997

230

(Signed)

"M. W. BERLEN.

"EDWARD P. MURPHY.

"FREDERICK J. FINNEGAN.

"JACOB WASSERMAN."

Then that is the seal of the board of election commissioners of the city of Boston.

Mr. CALLAHAN. Is that the final vote?

A. That is the return made by the election commissioners. They would not have the final vote there.

Q. You have the final vote?—A. Yes.

Mr. CALLAHAN. May we have that submitted now, the final vote?

Mr. O'CONNELL. Let me clear this up first.

Q. Taking up then the report received by you from the election commissioners of the city of Boston as to the result of the votes in the primary election in which the election commissioners of the city of Boston report that John F. Fitzgerald had received 41 or 50 votes more than Peter F. Tague, could any objection be filed with your board against the nomination of John T. Fitzgerald up to the time that the notification was served on you that he had received the nomination?—A. I think objections can be filed at any time.

Q. Could they be filed before you were notified he had the nomination?—A. That would depend upon the party filing it.

Q. Can you conceive of any way by which we can object to a man receiving the nomination when he has not received it?—A. That is a matter of psychology.

Mr. O'CONNELL. I think that is all. I will introduce at this time chapter 835 of the acts of 1913 of the laws of the Commonwealth of Massachusetts and their amendments. Can you leave this with us?—A. Yes, sir. I would rather furnish you with a fresh copy. Am I to supply you with a duplicate list and also a certified copy of the vote at the primaries?

Q. That is a written request showing what time that was received; I presume you have such a record?—A. I think so.

Questions by Mr. CALLAHAN:

Q. Will you give us the official final account in this election?—A. I can read from the report of the canvassing board, which is the governor's council.

Q. And that is official?—A. That is official.

"John T. Fitzgerald, of Boston, Democrat, 7,241, and is duly elected; Peter F. Tague, of Boston Independent has 7003 votes; H. T. Welch, 1,071, all others, 1 vote."

Q. Does that contain the soldier vote or the absentee vote?—A. Yes.

Mr. O'CONNELL. I call attention at this time to the fact that this is the report of the governor's council. They are the board who determine after canvassing who have been elected to State and national offices in this Commonwealth?—A. Yes.

Mr. O'CONNELL (reading):

"Commonwealth of Massachusetts, executive department, council chambers, Boston, December 17, 1918. Committee of the whole council to whom was referred the returns of votes for said offices given in the several cities and towns together with the absentee votes under the provisions of chapter 293 as amended by chapter 295 of the general acts of 1918, and the manner prescribed by the constitution laws of the Commonwealth of Massachusetts on the 5th day of November last past, report as follows: "

And in that report is contained the figures you have just read as the result in the tenth congressional district and it is signed by Edward F. Hamlin: "In council, December 11, 1918. The foregoing report is this day adopted. Edward F. Hamlin. Office of the secretary, Boston, December 11, 1918. A true copy. Albert P. Langtry, Secretary of the Commonwealth."

Above report of governor's council marked "Exhibit 21."

Mr. CALLAHAN. We would have a great many questions to ask of Mr. Cunningham, and I suggest that we go until 2 o'clock and agree that Mr. Cunningham shall be put on immediately.

(Adjourned until 2 p. m.)

HERBERT H. BOYNTON.

2 P. M.

HENRY V. CUNNINGHAM, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Henry V. Cunningham.

Q. And your residence?—A. Boston.

Q. You are chairman of the ballot law commission of the State of Massachusetts?—A. I am.

Q. And you are a member of the ballot law commission which heard the contest between Mr. Tague and Mr. Fitzgerald last October?—A. Yes.

Q. On behalf of Mr. Tague many names were submitted to your board in evidence of soldiers and sailors whom it was claimed were absent from the Commonwealth on the primary day, September 24, 1918; that is true, isn't it?—A. Yes.

Q. And after it was ascertained that you could not get full information, your board decided that you would look the matter up yourself and ascertain through your own channels, if possible, the exact situation?—A. I would not want to state the exact proceedings in the hearing, but as a result of the situation we did communicate with the Army headquarters and with the Navy headquarters concerning the names that were submitted to us by one of the parties.

Q. On what date did you communicate with the departments?—A. On October 19, 1918, I wrote a letter to Maj. Gen. William Crozier, commanding general Northeast Department.

Q. Will you read the letter that you wrote him, please, if you have a copy of it?—A. If I may finish my answer?

Q. Go ahead.—A. And on the same day, October 21, 1918, I wrote a similar letter to Rear Admiral Spencer S. Wood, commander of the first naval district. The letter I wrote to Gen. Crozier is as follows: "Will you please ascertain the whereabouts on September 24, 1918, of the men named on the attached list? The men named on this list are voters in the tenth Massachusetts congressional district, and it is claimed that their names were illegally voted on in the primary election held in Massachusetts on Tuesday, September 24, 1918, at which primary a candidate for Congress was nominated, whose nomination is protested on the above grounds (among others), and this protest is being heard by the Massachusetts State Ballot Law Commission. It is material to determine whether these men were on September 24, 1918, in places from which they could or could not be in Boston on that date. Will you please secure authority from the War Department to communicate directly with the commanders of the camps stated on the inclosed list and secure the above information. It is necessary that this be done seasonably to enable the official ballots to be printed for the State election, which will be held on November 5 next." Signed by me as chairman of the Massachusetts Ballot Law Commission.

Letter to Admiral Wood on the same day: "Will you please furnish to the Massachusetts Ballot Law Commission information concerning the whereabouts on September 24, 1918, of the men in the United States Naval Service who it is claimed voted in a primary election on that day in the tenth congressional district. This list was furnished by counsel to a representative of the Navy Department who attended the hearing before the Ballot Law Commission on Friday. This board will resume its hearings at room 443, State House, at 2 p. m. to-day." Signed by me as chairman of the Ballot Law Commission. The attached list is one that was furnished by counsel and contains the following names:

Samuel Grossman, third naval district, residence 8 or 9 Kenard Avenue.

Joseph H. Graham, 37 Billerica Street, Navy.

Joseph L. Clark, 63 Auburn Street, Navy.

Ralph Greenberg, 39 Oneida Street, Boston, Navy.

And on the back of that James H. Graham, 420 Center Street, Jamaica Plain, December 6, 1917. J. No. 11510.

Joseph L. Clark, J. No. 6682.

Ralph Greenberg, 100 Nightingale Street, Dorchester, J. No. 9245.

Q. Are those the only communications you sent?—A. Those are the only communications I sent; yes, sir.

Q. Did you receive any answer to them?—A. Yes.

Q. Have you got the answers with you?—A. I have.

Q. Will you read them please?—

Letters read into the record by Mr. Cunningham, as follows:

Henry T. Cotter, 1A Sharon Street. France.

Garrett F. Sullivan, 1462 Washington Street. Camp Mills, N. Y.

John L. Curry, 469 Shawmut Avenue. France; from Camp J. E. Johnson.

John J. Howell, 1435 Washington Street. Camp Dix, N. J.

Frank J. Ryan, 38 West Dedham Street. France.

Jerome J. Crowley, 6 Asylum Street. France, 101st Regiment.

John F. Downey, 16 East Dedham Street. University, Vt.

Walter J. Ring, Hotel Langham. France.

Moses Steinworzel, 31 Oneida Street. Camp Devens.

Joseph F. Horgan, 72 East Newton Street. Camp Devens.
 James A. Friel, 36 Billerica Street. Medical, France.
 Sergt. Israel W. Davis, 27 Lowell Street. Alabama, Camp Sheridan.
 Joseph Goldman, 30 Oneida Street, Camp Sherman, Ohio.

HEADQUARTERS, CAMP DEVENS,
Ayer, Mass., October 24, 1918.

From: Camp personnel adjutant.

To: Chairman Mass. State Ballot Commission, Boston, Mass.

Subject: Whereabouts of certain alleged enlisted men on Sept. 24, 1918.

1. The commanding general of the Northeastern Department has forwarded to this camp your request relative to the location on September 24th of Private Moses Steinworzel and Joseph F. Horgan, 31 Oneida Street and 72 East Newton Street, respectively. Wish to advise that the first-named man was here at Camp Devens on the above date until 6 p. m., at which time he was granted a pass until September 25th. As to Joseph F. Horgan, we find no record of a man by that name here at Camp Devens. Trust this will give you the desired information.

GEORGE C. TAIT,
*Captain, A. G. D., U. S. A.,
 Camp Personnel Adjutant.*

HEADQUARTERS NORTHEASTERN DEPARTMENT,
99 Chauncey Street, Boston, Mass., October 25, 1918.

Mr. HENRY V. CUNNINGHAM,

Chairman Mass. State Ballot Law Commission,

*Office of the Secretary of the Commonwealth,
 State House, Boston, Mass.*

DEAR SIR: Reference your letter of the 19th instant regarding the whereabouts of certain enlisted men on September 24, 1918, reply has been received in the case of John F. Downey, of 16 E. Dedham St., Boston, Mass., from his present commanding officer, who states that Downey was actually present at the University of Vermont, Burlington, Vt., on the date in question, and that he was not in Boston on that date.

WILLIAM CROZIER,
Major General, U. S. Army, Commanding.
 By M. J. MOORE,
Adjutant General, Adjutant.

HEADQUARTERS NORTHEASTERN DEPARTMENT,
99 Chauncey Street, Boston, Mass., October 27, 1918.

In reply refer to 014.35.

Mr. HENRY V. CUNNINGHAM,

Chairman Mass. State Ballot Law Commission,

*Office of the Secretary of the Commonwealth,
 State House, Boston, Mass.*

DEAR SIR: Reference your letter of the 19th instant regarding the whereabouts on September twenty-fourth, last, of certain enlisted men, reply has been received in the case of Garrett J. Sullivan, of 1462 Washington Street, Boston, Mass., from his present commanding officer, which indicates that this soldier was present and on guard duty at Camp Mills, New York, on that date, and also that he has not been in Boston since July 30, 1918, the date of his induction into the service.

WILLIAM CROZIER,
Major General, U. S. Army, Commanding.
 (Signed) M. J. MOORE,
 By M. J. MOORE,
Adjutant General, Adjutant.

HEADQUARTERS NORTHEASTERN DEPARTMENT,
99 Chauncey Street, Boston, Mass., October 29, 1918.

In reply refer to 014.35.

Mr. HENRY V. CUNNINGHAM,

Chairman Massachusetts State Ballot Law Commission,

*Office of the Secretary of the Commonwealth,
 State House, Boston, Mass.*

DEAR SIR: With reference to your letter of the 19th inst., regarding the whereabouts on September 24th last of certain enlisted men, you are informed

that the present commanding officer of Private Mosses Steinworzel, of # 31 Oneida Street, Boston, Mass., has informed the Department Commander that that soldier was present at Camp Devens, Mass., on September 24, 1918, until 6.00 p. m. of that date, at which time he was granted a 24-hour pass.

The department commander has also been informed that private John L. Curry of 469 Shawmut Avenue, Boston, Mass., referred to by you as being at Camp Joseph E. Johnston, Jacksonville, Florida, left that post on July 5th, 1918, for service with the American Expeditionary Forces.

WILLIAM CROZIER,
Major General United States Army, Commanding.

By M. J. MOORE,
Adjutant General, Adjutant.

HEADQUARTERS NORTHEASTERN DEPARTMENT,
Boston, Mass., November 2, 1918.

In reply refer to 014.35.

Mr. HENRY V. CUNNINGHAM,

*Chairman Massachusetts State Ballot Law Commission,
Office of the Secretary of the Commonwealth,
State House, Boston, Mass.*

DEAR SIR: With reference to your letter of the 19th instant, regarding the whereabouts on September 24th last of certain enlisted men, you are informed that the present commanding officer of Sergeant Israel W. Davis, of 27 Lowell Street, Boston, Mass., has informed me that that soldier was present at Camp Sheridan, Alabama, on September 24, 1918, and that the soldier stated to him that he did not vote by mail or otherwise, and gave no permission for the use of his name on any ballot.

WILLIAM CROZIER,
Major General United States Army, Commanding.

By M. J. MOORE,
Adjutant General, Adjutant.

HEADQUARTERS NORTHEASTERN DEPARTMENT,
Boston, Mass., November 4, 1918.

In reply refer to 014.35.

Mr. HENRY V. CUNNINGHAM,

*Chairman Massachusetts State Ballot Law Commission,
Office of the Secretary of the Commonwealth,
State House, Boston, Mass.*

DEAR SIR: With reference to your letter of October 19, 1918, regarding the whereabouts on September 24, last, of certain enlisted men, you are informed that the present commanding officer of Private Joseph Goldman, of 30 Oneida Street, Boston, Mass., has informed me that that soldier was on pass and absent from his proper station at Camp Sherman, Ohio, from Sept. 19, to Sept. 27, 1918. No information is available to indicate the whereabouts of this soldier on Sept. 24, but it is known that he was in Pittsburgh, Pa., on the 21st of Sept., in view of the fact that he requested an extension of pass by telegraph from Pittsburgh on that date.

WILLIAM CROZIER,
Major General United States Army, Commanding.

By M. J. MOORE,
Adjutant General, Adjutant.

On October 26, 1918, we sent this telegram to The Adjutant General of the United States Army, Washington, D. C.:

"The following sailors from this city are alleged to be in service in France on September 24, 1918: Henry T. Cotter, John L. Curry, Frank J. Ryan, Jerome J. Crowley, Walter J. Ring, and James A. Friel. It is claimed in evidence that they voted here on an election on that day. The case is pending before State ballot law commission. Please wire whereabouts of these men on that date."

Signed by me as chairman. That was sent on October 26, and reply to it is dated November 12, and is from the War Department and addressed to me as chairman.

Refer to AG-201.7.

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, November 12, 1918.

Mr. HENRY V. CUNNINGHAM,
Chairman Massachusetts State Ballot Law Commission,
Boston, Mass.

MY DEAR SIR: In reply to your telegram of recent date, in which you state that the following-named soldiers, to wit: Henry T. Cotter, John L. Curry, Frank J. Ryan, Jerome J. Crowley, Walter J. Ring, and James A. Friel, who are alleged to be in the service, voted in an election on September 24, 1918, and in which you ask the whereabouts of these men on that date; I beg to advise you that the records of this office show as follows:

Henry T. Cotter, whose emergency address is given as Mrs. Patrick M. Cotter (mother), #1 A Sharon Street, Boston, Mass., enlisted December 18, 1917, and on the date of the latest information received concerning him, August 20, 1918, was a member of the 31st Company C. A. C., at Fort Standish, Mass.

John L. Curry, whose emergency address was given as Miss Annie Curry (sister), #469 Shawmut Avenue, Boston, Mass., is a sergeant, 1st Company, Quartermaster Corps, and sailed for duty overseas July 11, 1918. No record of his return to the United States.

Frank J. Ryan, whose residence was given at the date of enlistment as #22 Lawrence Street, Boston, Mass., and whose emergency address is given as Mrs. Mary Ryan (aunt), #235 Bailey Street, Lawrence, Mass., is a member of Company M, 336th Infantry. This organization arrived in France on October 11, 1918. The soldier's whereabouts on September 24th is not known.

Jerome J. Crowley, whose emergency address is given as Mrs. Bridget Crowley (mother), #6 Asylum Street, Boston, Mass., enlisted May 28, 1917, and was assigned to Company A, 101st Infantry. This soldier died May 27, 1918, of wounds received in action.

Walter J. Ring, can not be identified.

James A. Friel, whose emergency address is given as James Friel (father), #36 Billerica Street, Boston, Mass., is a member of the #303 Ambulance Company, 301st Sanitary Train, and sailed for duty overseas July 11, 1918. No record of his return to the United States.

Very respectfully,

(Signed) ALFRED C. NONAKOSKI,
Adjutant General.

FIRST NAVAL DISTRICT, OFFICE OF THE COMMANDANT,
Little Building, Boston, Mass., October 21, 1918.

STATE BALLOT LAW COMMISSION,
State House, Boston, Massachusetts.

GENTLEMEN: In response to your request for information as to the whereabouts on September 24, between the hours of 6 a. m. and 4. p. m., of Samuel Grossman, 809 Kennard Ave., Boston; James H. Graham, 37 Billerica St., Boston; Joseph L. Clark, 63 Auburn St., Boston; and Ralph Greenberg, 39 Oneida St., Boston, the following information, as shown by the records at the district detail office, first naval district, is herewith given:

Joseph Leo Clark; age, 25; 63 Auburn St., Boston; mess attendant, first class; enrolled in U. S. Naval Reserve Force July 25, 1917; called to active duty August 3, 1917, and assigned to U. S. naval training station, Bumkin Island, Boston Harbor; transferred to coast guard station # 25, Boston Harbor, on June 7, 1918, where he is now on duty. On liberty with permission all day September 24, 1918.

Samuel L. Grossman; age, 25; rating, seaman, second class; 9 Kennard Ave., Boston; enrolled in U. S. Naval Reserve Force on February 5, 1918, as mess attendant, first class; called to active duty March 12, 1918, and assigned to U. S. Naval Training Station, Hingham, Mass.; transferred to armed guard, Brooklyn, N. Y., on April 17, 1918, since which date this district has no record of him; any further information as to his place of duty on Sept. 24, 1918, can be obtained from the Bureau of Navigation, Navy Department, Washington, D. C.; or, if he was in the third naval district on that date then from the commandant third naval district, New York, N. Y.

James H. Graham; age, 29; rating, seaman, second class; 420 Centre St., Jamaica Plain; enrolled in U. S. Naval Reserve Force on December 6, 1917, as mess attendant, first class; called to active duty December 17, 1917, and

assigned to commissary school, Commonwealth Pier, Boston; transferred to office of aide for information on July 16, 1918, where he is now stationed.

Since information was requested as to James H. Graham, of 37 Billerica St., Boston, and whereas the aforementioned James H. Graham resides at 420 Centre Street, Jamaica Plain, and this office has not been advised as to any change of address, it is not believed that he is the same person. Therefore no further effort has been made to trace him.

Ralph Greenberg; age, 23; rating, seaman, second class; 100 Nightingale St., Dorchester, Mass.; enrolled February 21, 1918, as seaman, second class; called to active duty on March 5, 1918, and assigned to U. S. Naval Training Station, Hingham, Mass.; transferred to section headquarters, Boston, on August 20, 1918, and assigned to Graves Light, Boston Harbor, where he is now on duty.

Since information was requested as to Ralph Greenberg, of 39 Oneida St., Boston, and whereas the afore-mentioned Ralph Greenberg resides at 100 Nightingale St., Dorchester, Mass., and this office has not been advised as to any change of address, it is not believed he is the same person. Therefore no further effort has been made to trace him.

This office has information only of the U. S. Naval Reserve Force, and if Graham and Greenberg enlisted in the regular Navy records of their enlistments may be obtained at the U. S. Navy Mobilization Office, 51 Cornhill, Boston.

Respectfully,

(Signed) SPENCER S. WOOD,
Rear Admiral, U. S. Navy.

Mr. O'CONNELL. At this time I want to read into the record the following with reference to Walter J. Ring concerning when the department was unable to furnish an answer at that time.

Mr. CALLAHAN. I object to that. Why don't you have some one here to authenticate that report?

Mr. O'CONNELL. I will read it.

Mr. CALLAHAN. You can summon anybody just the way you summoned Mr. Cunningham. That is the orderly way and the correct way, and you know it. I don't suppose the notary can change the rules of evidence.

Notary BERMAN. You can put that in by putting the Congressman on the stand.

Mr. O'CONNELL. I am putting this in for the purpose of keeping the record clear in regard to this man and to please my brother; the form and manner in which it is obtained will be attended to later, but it is to keep the record of those men clear.

Mr. CALLAHAN. Do I understand you overrule the notary?

Note my objection.

Notary BERMAN. I will ask of Mr. Tague if he received that information from the department?

Mr. O'CONNELL. I am putting it in now in order that this may be clear. [Reading as follows:]

NAVY DEPT. BUREAU OF INDUCTION,
Feb. 10, 1918.

Confirming our telephone conversation of to-day, herewith is a copy of the service record of Walter John Ring.

C. B. HATCH, Jr.,
(By direction).

And on the attached paper with this backing:

U. S. Naval Air Station.

Name—Ring, Walter John.

Enlisted—Dec. 14, 1917.

Transferred to inactive duty—Date, Jan. 25, 1919. Bureau of Induction, Navy Dept., Feb. 10, 1919.

On the inside of which is the following:

Walter J. Ring enlisted 12-14-17.

Sea—2CC. 1st Naval Dist.

Transferred 5-23-18. 2C. 6th Naval Dist.

Change of rating 12-17-17. 2 L. D. S. M. M. 6th Naval Dist.

Transferred 8-25-18. L. D. S. M. M. Naval Air Station, Pensacola, Fla.

Change of rating 10-1-18. L. M. (A.) Pensacola, Fla.

Relieved from active duty 1-26-19.

M. M. 2C. 1st Naval District.

Q. Were those all the letters you received as you have read them, Mr. Cunningham?—A. Yes.

Q. Can you give us the date on which your commission made its finding in reference to the Tague-Fitzgerald contest?—A. Not now; not this minute without reference to the files in the secretary's office.

Q. Will you get that and send it to us?—A. I will ask Mr. Boynton to bring that data with him on Monday when he comes.

Q. If you will do that it will be sufficient.—A. Our decision was filed in the secretary's office.

Q. No notice was sent to me as attorney for Mr. Tague by you?—A. I don't know what the secretary did; I sent no notices.

Q. No notice to Mr. Tague?—A. Sent no notice to anybody. We filed our decree with the secretary of the Commonwealth.

Q. There is no question that the argument and all evidence received by you was submitted and ended on the afternoon of October 25?—A. I can not state that date here, Mr. O'Connell.

Q. Haven't you got that pretty well imbedded in your mind, Mr. Cunningham?—A. I can not carry the date. I should have to refresh my recollection from my notes. I only brought what your associate asked me to bring.

Cross-examination by Mr. CALLAHAN:

Q. You are the chairman of the ballot law commission?—A. Yes.

Q. And how long have you been chairman?—A. I have been chairman since the death of my predecessor, Mr. Arthur Lincoln, and I wouldn't like to say now, but I think it is from 10 to 15 years.

Q. And for how long have you been a member of that commission?—A. Since 1893.

Q. That is a bipartisan commission, Mr. Cunningham?—A. There is a statute governing it and if it is competent for me to state what my view of the law is—I can not quote it exactly——

Q. Both of the parties are represented on that commission?—A. They are, and I believe the statute says that not more than two of the members of the commission shall be from the same party. I think that is the language, but the statutes that were introduced in evidence this morning are what I would refer to, to answer your question.

Q. You are a member of the bar?—A. I am.

Q. And for how long, Mr. Cunningham?—A. Since 1887.

Q. Do you recall in all your experience on the ballot-law commission, Mr. Cunningham, any hearing on election matter that took as much time as this hearing of Tague and Fitzgerald?

Mr. O'CONNELL. Wherein is that material?

Mr. CALLAHAN. Let me ask my question. It is material because in a few minutes I am going to read your allegations.

A. We have had several very long hearings. I have in mind now two long hearings concerning State conventions.

Q. As a matter of fact, this was a very complete and exhaustive hearing, wasn't it?—A. In my judgment, it was.

Q. Now, Mr. Cunningham, I want to read the allegation here of Mr. Tague and I want your answer to it. The first specification of Mr. Tague's bill of complaint reads as follows: In asking for this hearing he does so because the hearing before the ballot-law commission of the Commonwealth of Massachusetts was conducted in an illegal, fraudulent, improper, and prejudiced manner. What have you to say about that?

Q. Do you understand my question now, Mr. Cunningham? Shall I read it again?—A. I wish you would.

Q. In their bill of complaint they allege in their first specification they bring that complaint because the hearings before the ballot-law commission of the Commonwealth of Massachusetts were conducted in an illegal, fraudulent, improper, prejudiced manner. What have you to say to that?—A. The hearing was conducted according to law, fairly and without prejudice.

Q. And in their first specification the first subheading they have "Many witnesses summoned by the——"

Mr. CALLAHAN. I think we ought to be able to conduct this hearing without comment and without noise. We listened intently to you.

Mr. O'CONNELL. I was simply talking with Mr. —— here. If you were watching me instead of watching your witness I am not to blame.

Notary BERMAN. We will never get anywhere if you don't quit fighting.

Q. This specification, "The commission refused to summon witnesses and that their names and addresses and sufficient money to summon said witnesses were in the possession of the commission." Is that so, Mr. Cunningham?—A. Every witness was summoned we were requested to summon.

Q. And when you found that a great many witnesses did not appear, didn't your commission make an attempt and did succeed in getting many more witnesses present?—A. We called upon the sergeant at arms and issued processes of our own motion for the presence of witnesses who had evidently been either summoned or where processes were sought to be served upon them.

Q. See if I have this clearly in mind. On one morning when the evidence apparently had been all introduced by both sides and both sides had rested, didn't the commission then postpone their hearings for three days so the sergeant at arms could make a special attempt under your direction to bring those witnesses in?—A. I don't know about the number of days, but on one day we did of our own motion seek to compel the attendance of those whose presence had been sought by the parties.

Mr. O'CONNELL. I want to call your attention to this at this time. When you stated we had rested, we had never rested when that was done, and I don't think Mr. Cunningham got the cunning of your question.

Mr. CALLAHAN. There is nothing cunning about it.

Notary BERMAN. You make a request that Mr. O'Connell's comment be stricken from the records and I so order it.

Q. As a matter of fact, Mr. Cunningham, when your commission decided to do that, wasn't counsel on both sides prepared to deliver their arguments in the case?—A. I would much prefer to have the stenographic record show what happened at that time.

Q. But at any rate, this postponement and this attempt to get these witnesses was done on the initiative of your commission?—A. That is not in my mind now. We made a statement that is in the record of the hearing and I would much prefer rather than attempt to tax my recollection upon that to put in the statement that was made by me at that time as chairman with the concurrence of my associates.

Q. Have you your records of those hearings, Mr. Cunningham?—A. I have nothing but my own notes. There is a stenographic report but it has never been written out.

Redirect examination by Mr. O'CONNELL:

Q. You stated in your cross-examination that you conducted these hearings in a legal way. You didn't permit me to introduce any evidence in reference to illegal voting or registration, did you?—A. That, Mr. O'Connell, was governed by rulings and I think the rulings are a part of the stenographic record.

By Mr. CALLAHAN:

Q. That is one of the things I meant to ask Mr. Cunningham when he comes here and because he did not have his stenographic report, I thought we would put it off.—A. That stenographic report has never been written out and I know that my own trial notes will not state that. That was a ruling made at the outset and the stenographer took it down and I would much prefer to refer back to that and if counsel will submit to me on either side what particular parts of the record they would like to have, I will have the stenographer write them out.

Q. That can be done all right. The fact remains that I was not permitted to go into the matter of illegal registration at the hearing before you?—A. I should answer that "Yes, sir," but subject to modification.

Q. The fact remains—there wasn't any evidence received by your board as to illegal registration?—A. I believe that to be true.

Q. And due to the ruling your board made?—A. I think so. I recollect so.

Q. Referring to the 35 or 40 witnesses produced on the last day, and for whom Mr. Lomasney claimed to be attorney, is it not a fact you would not allow me to cross-examine any of these witnesses?—A. My recollection is that the commission, or I, as chairman, conducted the examination of those witnesses.

Q. And you refused to permit me to examine them?—A. With the qualification that the record will amplify.

Q. And I asked even to be permitted to cross-examine, but was not permitted.—A. I think that is true, but I say I want to amplify my statement of that by the record.

Q. If there is any mistake, you can correct it by the record. I want to be entirely fair and want you to give your answer in any way you see fit to cover

the truth. Is this not a fact that all the witnesses, whose names were handed into the commission, were not summoned?—A. I think they were, Mr. O'Connell.

Q. Don't you recall I called your attention to the fact that the names of twenty-odd witnesses submitted, that there was no record made of them at all by your commission, and that Mr. Vincent admitted he received the list from Mr. Goodwin and didn't know what became of it?—A. I should have to look at the record, before I answered that question, categorically, but there was an honest effort made to have every witness summoned, and the Sergeant at Arms office was at work all night and every effort was made day after day for the production of every witness whose attendance was sought, and then the commission not being content with the result of the attempts that were being made, of our own motion, we proceeded to have brought before us all the witnesses whom we believed should be parties.

Q. But the fact remains, you didn't bring in and there was not produced before you by the sergeant at arms but a very few of those who were summoned.—

A. There again as to the numbers I think I can get you that from my own notes.

Q. Have you the original returns made for you by the sergeant at arms?—

A. Those I would not keep myself.

Q. Who keeps them?—A. I don't know whether they would be in the possession of the sergeant at arms, or not.

Q. They were sent out under your name, at our request?—A. Yes.

Q. And we furnished you the money? You ordered us to furnish the money for the sergeant at arms, which was done?—A. Yes.

Q. And if those witnesses didn't come, it was because the sergeant at arms was unable to get them, or because they refused.—A. I wouldn't say as to that. I don't know what their reasons were.

Q. I want to ask you what becomes of your original record. When you issue a summons what do you do with it, so far as your records are concerned?—A. I turn the summons over to the sergeant at arms.

Q. Do you mean to tell me the only record you have is in the possession of somebody else?—A. We don't regard summons as records at the conclusion of the hearing.

Q. We gave you a list of names to summon, didn't we?—A. Yes.

Q. You made out summonses?—A. Yes.

Q. The summons was then an original proposition coming from you. Now, where is the record of that?—A. If the sergeant at arms hasn't it, or if it is not preserved, I don't know where it is.

Q. Why shouldn't it be in your records?—A. We have no records as such. We hear the case——

Q. You have been referring to your records here?—A. No. This is correspondence.

Q. In your answers to my questions?—A. They are stenographic records. We do not keep any records.

Q. Don't you keep a record of the men who are summoned? No record of that kept? And no record kept of whether they respond to it or not?

Mr. CALLAHAN. He said he had that record in his notes.

A. I have in my notes, as well as in the stenographic records, the names and substance of the testimony of every witness.

Q. But haven't you got the returns which the sergeant at arms made to you?—A. We had at the time, but I haven't kept them.

Q. What have you done with them?—A. They didn't come to me personally.

Q. When the sergeant at arms brought back a summons he walked up to you and handed it to you?—A. Yes.

Q. What did you do with them?—A. They were left in the hearing room. We didn't take them with us after our deliberations. We had the substance of all the testimony, which was all we wanted.

Q. Did you call my attention that you were leaving the original summonses turned over to you by the sergeant at arms, leaving them in the hearing room?—A. I believe they were in the custody of the sergeant at arms.

Q. Then what did you do with them?—A. After examining them they were left with the sergeant at arms.

Q. You returned them to the sergeant at arms?—A. I simply examined them in the sergeant at arms's custody.

Q. You examined them in the custody of the sergeant at arms. What do you mean by that?—A. He showed us the return on them and then we acted on the return.

Q. As a matter of fact, didn't the sergeant at arms walk up to you with the summonses and leave them there on your desk in front of you; leave them in your possession and walk away?—A. The sergeant at arms was in the room all the time. I assume he was in custody of everything that was before us.

Q. You assumed that? With all the confusion that there was in the room?—A. There was no confusion, so far as the hearing was concerned. Not a bit. Within the hearing room decorum and order prevailed.

Q. You are an attorney?—A. Yes.

Q. Of many years' standing and practice?—A. Yes.

Q. And you know the force of a summons?—A. Yes.

Q. And you know the importance of the record made by the serving officer?—A. Yes.

Q. And still, knowing that, you want us to understand you left those summonses in the hearing room without being put in the care of anybody?—A. The service of the summons had been completed when the witness was present or when he did not respond to the summons. We had no other occasion for the summons after the witness responded or did not respond.

Q. Wasn't it important from your standpoint as a member of the commission who had summoned a witness to know what the return was, when a witness did not respond?—A. We know the return.

Q. I am asking you if it was not important for you to know that and keep it as a record, particularly if the witness did not show up?

Mr. CALLAHAN. He has told you that twice.

A. That was the basis of everything that we did in respect to bringing in the witnesses.

Q. So far as you know, you don't know where those summonses are or the returns of the sergeant at arms?—A. They are in the custody of the sergeant at arms or disposed of by him.

Q. What do you mean by "disposed of by him"?—A. I mean they are where whatever the sergeant at arms does with papers we have had from year to year.

Q. And what is that?—A. We keep no permanent records beyond the notes of our hearings.

Q. What has the sergeant at arms got to do with your work?—A. The sergeant at arms is the person to whom summonses are turned over.

Q. Do you want to say now, Mr. Cunningham, that you ever turned these summonses back to the sergeant at arms?—A. I don't know as I turned them back to him. They were there in his custody.

Q. How did they ever get into his custody?—A. He has charge of the hearing room where we are.

Q. You simply assumed he went into the hearing room and took them off the table?—A. That would be at the conclusion of the hearing.

Q. That is what your assumption is?—A. I believe so.

Q. Did you ever see anybody take them, representing the sergeant at arms, or the sergeant at arms himself, ever take those summonses after he had made returns to you on them?—A. No; I don't think so.

By Mr. CALLAHAN:

Q. Summonses as a matter of fact, are issued by you, and are left with the witnesses who are summoned, aren't they? The summons goes from you and goes to the witness or prospective witness?—A. I believe our original summons is served upon the witness, and the return is made on a certified copy.

Q. And that is a copy that comes back to you?—A. I think so.

Q. And the importance of that, Mr. Cunningham, is simply to find out whether or not the witness appears?—A. That is the only purpose.

Q. And that is the only purpose for which it is used in court isn't it?—A. That is my construction and view of the law, yes.

Q. And you have kept notes of all the witnesses who appeared and those who did not appear? And you have those notes, haven't you?—A. Yes.

By Mr. O'CONNELL:

Q. Where are they kept?—A. Those are my own private official records.

Q. Which is it, private or official?—A. They are trial notes I have kept of the ballot law commission since I have been on it.

Q. Where do you keep them?—A. In my office. The ballot law commission has no headquarters. We have no place to keep records.

Q. At the time that your board decided to continue our hearing from Monday morning, when we were to resume, I think, Friday, was that done for the

purpose of giving Martin Lomasney an opportunity to bring in those witnesses and was the warning that you gave him for the purpose of intimating to him that it was for his best interests to bring those witnesses in?—A. The purpose that we had in taking that action was stated in the open hearing, which declared purpose was the absolute intention of the commission. That was stated was no purpose or intention on behalf of the commission. That was stated and I should have to refer to the stenographic notes and reports in order to be sure of the purpose as we then stated it.

Q. Where is the stenographic report of that? Who has that stenographic report?—A. I think the stenographer who has always done the reporting for the commission has it. I will furnish it to counsel if they desire.

Q. You will have that statement stricken off, will you?—A. Yes; surely.

Q. No official stenographer of the board, is there?—A. No; we always have a public stenographer—we usually have a public stenographer who reports the evidence. I don't recall in any case we have ever had the evidence written out. I take pretty copious notes but in this case there were two or three rulings that we made, the exact terms of which I would not attempt to remember, and I have not them incorporated in my own personal notes.

Q. You keep no official records. That is true, isn't it?—A. No; our duty is simply to decide cases.

Q. Then you have no official records?—A. No.

Q. And any reference that you may make in your testimony will have to be simply a refreshing of your mind by some notations that you made at the time?—A. Either that or the report of the stenographer.

Q. And there is no official stenographer of the commission?—A. No official stenographer except as the commission employs a competent public stenographer to report the hearing.

Q. Is there any secretary to your commission?—A. Yes, sir; Mr. Estey is the secretary.

Q. Are you sure?—A. Mr. Estey, I think, just now. I don't think we have had a meeting since Mr. Estey was recently renominated.

Q. Are you sure who was secretary then?—A. Mr. Estey has been the secretary for many years past.

Q. How and when was he ever elected?—A. Usually at the first meeting we have.

Q. Any record of that ever having been done?—A. Not unless Mr. Estey would report it himself. Our acts and decrees are always signed by all three.

Q. Then you haven't any secretary—A. Why, yes; we usually organize with a chairman and secretary.

By Mr. CALLAHAN:

Q. It has been alleged in the bill of complaint that Congressman Tague has testified that Mr. Lomasney was in the room and his physical presence there had something to do with the findings of your board? Is that so, or not?—A. It is not.

Q. Were there any more courtesies shown to Mr. Lomasney or to counsel for Mr. Fitzgerald than was shown to Congressman Tague and his counsel?—A. As courteous, I should not use that. The same deference. We attempted to pay the same deference as a quasi-judicial tribunal would be expected to to counsel conducting the case.

Q. Were you or your board frightened or intimidated by the presence of Mr. Lomasney?—A. No.

By Mr. O'CONNELL:

Q. You and Mr. Lomasney have known each other for a great number of years, haven't you?—A. Yes.

Q. For many years?—A. I wouldn't say many years. I know Mr. Lomasney—not intimately—and neither have I known him a great many years. I have known him as a man in public life here in Boston as I believe I know all the men of public life in Boston.

Q. He sat there every day during the hearings that went on before this board concerning the Tague-Fitzgerald matter, didn't he?—A. I should say he was there substantially all the time.

Q. And he sat nearest to the part of the desk where the commission was seated?—A. I believe he sat between and behind Mr. Albers and his associates at counsel table.

Q. What do you mean by that—between and behind?—A. He sat a little behind them and between their chairs. They sat along side of one another at the table and he sat immediately behind them and between.

Q. And very near to where Mr. Estey sat?—A. I should not say that. There was a long counsel table at right angles with the table where we sat. Mr. Estey sat at my right.

Q. In other words, he sat at counsel table?—A. Not at counsel table. He sat, as I say, just behind counsel at counsel table.

Q. And then on the last day of the hearing he wanted to appear as counsel for these 40 missing witnesses he brought in there that day, saying he had a power of attorney representing each and every one of them, didn't he? Didn't he appear at the counsel table then?—A. Mr. Lomasney asked to appear for certain of the men who were summoned there and we refused to let him appear. I believe the reason for my ruling being that the witnesses were not entitled to be represented.

Q. Just one question more, when those men came in and you refused to allow me to cross-examine them and decided to put just the three categorical questions that you did and not permit any others when I asked you to inquire of those witnesses whether or not they had a blue registration card, that would have been necessary to have on their person, you refused to ask that question, didn't you?—A. I will answer that question "yes," but it may be that after examination of the stenographic notes I may want to amplify that.

Q. Haven't you any better memory of it?—A. I said my recollection is that I did so.

Q. That you refused to allow that question to be asked or ask it yourself?—A. Yes; but I say there may have been some qualification, and if there was, I should like to add that to my answer, because I do not want to—

Q. Look up your records and see what amplifications, amendments, and amendments you care to make and I will be glad to give you a chance to put them in. I don't want to have anything in except just what is a fact.

Mr. CALLAHAN. I think out of courtesy to the witness that ought to be stricken from the record.

Mr. O'CONNELL. Why, all I want is to give him an opportunity to tell all.

Mr. CALLAHAN. It is discourteous to a responsible public official.

Notary BERMAN. If Mr. Cunningham considers it that, it may be stricken from the record.

Mr. CUNNINGHAM. I have no requests to make. I am perfectly willing.

HENRY V. CUNNINGHAM.

PETER F. TAGUE, recalled.

Direct examination by Mr. O'CONNELL:

Q. Your name is Peter F. Tague?—A. Yes.

Q. I recall you for the purpose of asking from whom you received this communication in reference to Walter J. Ring?—A. Bureau of Induction, Washington.

Q. And this was in response to a request made by you as to the whereabouts of Walter J. Ring on September 24, 1918?—A. It was.

Mr. O'CONNELL. I offer that.

Service report Walter J. Ring, marked "Exhibit 22."

PETER F. TAGUE.

WALTER H. UNDERHILL, sworn.

Direct examination by Mr. O'CONNELL:

Q. Your full name?—A. Walter H. Underhill.

Q. What is your address?—A. My address is 100 Parker Hill Avenue, Roxbury.

Q. You are a police officer connected with the city of Boston?—A. Station 5.

Q. And assigned for police duty in ward 6 on primary election?—A. On election day.

Q. Were you stationed at the booth?—A. Yes.

Q. Which booth?—A. Ward 6, precinct 1.

Q. Did you notice the fact that stickers were being used there that day?—A. Yes.

Q. Did you call anybody's attention to the fact that stickers were on the floor?—A. No.

Q. What do you remember about it?—A. I remember that there was some stickers laying on the floor and the remark was passed about it.

Q. What was the remark?

Question objected to by Mr. Callahan. Admitted.

A. That there were several stickers laying on the floor and I believe I took one up myself and looked at it and it was a Tague sticker.

Q. What did you do with that sticker?—A. Threw it away again.

Q. Did you have any talk with Mr. Mahoney?—A. I don't remember that I did any special.

Q. You won't say that you didn't?—A. Mahoney, I understand, was there. There were some people there.

Mr. CALLAHAN. Wait a minute.

Q. Go ahead and give me your answer as best you can? You won't say you didn't have any talk there.—A. Not any special talk with Mr. Mahoney alone.

Q. Was there any general talk when he was around there?—A. Remarks passed about stickers being on the floor, and Mr. Mahoney was there, but no special conversation on my part with Mr. Mahoney or anyone else.

(No cross-examination.)

WALTER H. UNDERHILL.

DENNIS F. MAHONEY, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Dennis F. Mahoney.

Q. Your residence?—A. Hotel Davis.

Q. Were you at ward 6, precinct 1, where Mr. Underhill was stationed on election day?—A. I was.

Q. Do you recall any conversation with reference to stickers at that time?—A. I do.

Q. Will you tell us what it was?—A. Shortly after the polls closed.

Q. With whom did you have it?—A. Mr. Underhill, shortly after the polls closed. I was outside of the poll all day.

(Mr. Callahan's objection noted.)

A. I was stationed at the polling booth all day on the sidewalk from 6 a. m. to 4. p. m. After the polls closed I went downstairs in the basement of the schoolhouse, where the voting was taking place, and I talked with Mr. Underhill, and remark was passed about the stickers on the floor. Mr. Underhill called my attention to the stickers on the floor, and I noticed quite a number of stickers on the floor, and looking at the ballot boxes, I found stickers lying on the ballot boxes.

Q. Up where you were?—A. Where they vote. I took up possibly a dozen of them and stood a few minutes chatting, and then started to my own office, at 5 Shawmut Avenue, to clean up my work for the day, and on the way down I picked up one sticker and found it was smooth. I tried to wet it and put it on a letter in my pocket, but it was not gummed.

Q. Is that the sticker you gave to Congressman Tague?—A. No; I did not give him any sticker. I found these stickers with no mucilage on the back.

Q. Is that the sticker you found there?—A. Very similar to that.

Q. I show you Exhibit 10, without any gum on the back of it.—A. Some were gummed and some were not.

Q. Were those kind gummed on the back?—A. Seemed to be about that size there, as near as I can recollect now.

A. How many of them did you find, Mr. Mahoney?—A. I think it was six or eight. I forget which. I picked up something over a dozen stickers altogether. I didn't notice, because I was in a hurry to get down to attend to my business. I was away all day.

Cross-examination:

Q. What is your business?—Plate glass; 105 Shawmut Avenue.

Q. How long have you been in that business?—A. A year last July.

Q. July, 1917?—A. Yes, sir.

Q. Are you working there now?—A. I have been ill for nine weeks with the influenza.

Q. Before the nine weeks what did you do?—A. Worked for Mr. H. C. Butler, 105 Shawmut Avenue.

Q. You live at the Hotel Davis?—A. Yes.

Q. Live there now?—A. I do.

Q. How long have you lived there?—A. Practically altogether about six years.

Q. Hotel Davis is where?—A. Four Davis, corner of Washington.

- Q. Have you voted from that place?—A. I have every year.
- Q. During those four years?—A. I have.
- Q. Were you working at the polls that day for Mr. Tague?—A. I was.
- Q. And you were paid for working for him that day?—A. I volunteered my services that day, free of cost.
- Q. To whom?—A. Mr. Callahan, Mr. Tague's manager.
- Q. Mr. Callahan, who testified here to-day?—A. Yes.
- Q. You saw him, didn't you?—A. Yes.
- Q. And you gave up your work and went to the polls all day in a voluntary way for Mr. Tague?—A. I did.
- Q. Do you know Mr. Tague?—A. I do.
- Q. Had Mr. Tague ever secured you a position?—A. He has.
- Q. Where?—A. Quartermaster's Department.
- Q. When?—A. Three years ago.
- Q. And you felt obligated to Mr. Tague?—A. I did.
- Q. Did you feel obligated to him so you came here and testified?—A. I do.
- Q. And that is why you came here, isn't it?—A. Yes.
- Q. And you came here without a summons?—A. Without a summons.
- Q. Mr. Mahoney, didn't it strike you as a peculiar thing to see these stickers without gum on them?—A. At that time, no.
- Q. You knew the kind of stickers Mr. Tague's friends were giving out?—A. I supposed they were all the same sticker.
- Q. You were giving them out yourself.—A. I certainly was.
- Q. And you saw this sticker without gum?—A. I did.
- Q. Wasn't it the same as the stickers you were giving out?—A. Apparently so; yes.
- Q. So, in your best judgment, the sticker you saw without gum was the same kind of a sticker as you had been giving out all day?—A. I should say yes.
- Q. And you had never told anybody you saw a different kind of a sticker that day?—A. I didn't find it until after the polls closed.
- Q. You have never told anybody you saw a different kind of sticker?—A. I don't recall.
- Q. And the sticker you saw without gum was the same size and print you had been giving out?—A. Apparently.
- Q. Did you save any of these stickers?—A. I did; but I can not find them because I was taken ill and I don't know what happened to them.
- Q. Did you save any of the stickers you had with gum on them?—A. I think I put them in the cubby hole in my office, but they are not there now.

MARY E. ROGERS, sworn:

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Mary E. Rogers.
- Q. Where do you reside?—A. 38 West Newton Street.
- Mr. CALLAHAN. I object to this witness testifying at this time. We have received no notice that this witness was going to testify. The statute requires that we receive notice.

(Witness suspended.)

EDWARD R. GRAY, sworn:

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Edward R. Gray.
- Q. What is your business?—A. Master mariner.
- Q. Working for whom?—A. Master of ferry division for the city of Boston.
- Q. The ferry that runs between ward 5 in Boston and ward 2 in East Boston?—A. Yes.
- Q. And all in the tenth congressional district?—A. Yes.
- Q. Do you know Mr. William Murray? Do you recall ever having had a talk with Mr. Murray at which Representative O'Hearn was present?—A. I don't recall any such conversation.
- Q. Do you recall talking with Representative O'Hearn in reference to the election that took place last November, discussing with him the reason why Congressman Tague was defeated?
- Mr. CALLAHAN. Ask him one question at a time.
- Mr. O'CONNELL. Who is asking this question?
- Notary BERMAN. I want to make this statement. The gentlemen in Congress who are going to read this testimony are not interested in any quarrel between

attorneys and what they want is evidence. The less quarreling between attorneys the better the record will be. I think Mr. O'Connell can ask the question and as he sees fit and you can object.

Q. Did you have any conversation with Representative O'Hearn election day, or shortly afterwards, in which you discussed with him the reason why Congressman Tague was defeated?—A. I have no such recollection of any conversation. I may safely say——

Q. Calling your attention to the night after election, at the evening time, the time you met Representative O'Hearn?

Mr. CALLAHAN. Why don't you have him testify he did meet Representative O'Hearn?

Notary BERMAN. I think Mr. O'Connell is entitled to ask questions as he sees fit and if you have any objections why not state them?

Q. I direct your attention to the evening after election, to the time when you met Representative O'Hearn?

Mr. CALLAHAN. Did he meet him?

Notary BERMAN. The witness did not say whether he did or did not.

Q. Do you recall that time?—A. Why, no. I am at sea with all this.

Q. Will you say that you did not meet Representative O'Hearn?—A. I have met Representative O'Hearn; yes. I have met him in the American House, Maverick Square, and have met him in Good Friend Leary's—a dozen places, and I can not recall at any time having any great discussion with him in regard to the congressional fight.

Q. Do you recall Representative O'Hearn saying "This is the reason Tague was licked"? And handing you a package of slips such as that? Look at it please before you answer. [Exhibit 10.]—A. I can not take my solemn oath; no.

Q. Do you recall taking and putting some of them in your pocket?—A. I can not take another solemn oath; no.

Q. Do you recall some of them falling on the ground, and Mr. Murray picking them up and Mr. O'Hearn asking him to give them back? Do you recall that?—A. No, sir; I do not.

Q. Do you recall Mr. Murray being present at a time when these stickers were discussed?—A. I don't believe I know this man by sight. I didn't know his name. I have met him in the restaurants and have met him on the street, etc., but I don't place that young man, and I don't believe I have ever exchanged a word in any conversation in any way, shape, or manner that I have knowledge of.

Q. I didn't ask you that. I asked you if some of those stickers, such as I have shown you, Exhibit 10, fell on the ground and Mr. Murray picked them up, and he was asked by Representative O'Hearn to hand them back to him.—A. I don't remember any such action or transaction in any such way, shape, or form.

WILLIAM A. MURRAY, sworn:

• Direct examination by Mr. O'Connell:

Q. What is your full name?—A. William A. Murray.

Q. And where do you live?—A. No. 340 Saratoga Street.

Mr. CALLAHAN. I submit this man has not been summoned or we have not been given notice of his summons.

Mr. O'CONNELL. The summons was left at Mr. Feeney's office.

Mr. CALLAHAN. We have the list.

Mr. O'CONNELL. There was another list given you the other day.

Mr. CALLAHAN. This is the only list given us, and there is no William A. Murray living at that address.

Q. You live on Summer Street, East Boston?—A. No; 340 Saratoga Street.

Mr. CALLAHAN. I think this is a very disorderly proceedings. The statute requires that we shall be given notice of the witnesses who are going to testify, whether they are summoned or whether they appear voluntarily. That is the statute and we insist upon its being carried out.

Mr. O'CONNELL. I say the statute is being complied with. We gave them notice we would examine William F. Murray, intending to examine this man, who is here. We have no other William F. Murray in mind, and he is here with that purpose only. There is no purpose of misleading or acting in any way out of order. I do protest against the effort being made to delay these hearings.

Mr. CALLAHAN. I don't know whether we have the right to decide on these questions, but you must understand if you read that statute that it is necessary

when summoning witnesses to notify beforehand opposing counsel, giving names and addresses of witnesses, and unless that statute is complied with, a witness can not testify. That is clear and unequivocal.

Mr. O'CONNELL. There is no intention of misleading if it was John Doe.

Notary BERMAN. In view of the fact that the statute specifically states that notice must be given in writing to counsel, I don't think Mr. Murray is entitled to testify this afternoon. You can give notice to Mr. Callahan now that he will testify Monday.

Mr. O'CONNELL. I think that we ought to be permitted to put Mr. Murray on the stand. If Mr. Fitzgerald desires to go off to Palm Beach at a time when this hearing is going on so that we can not serve notice on him. We have been inconvenienced enough by Mr. Fitzgerald's absence from Boston, and it is a deliberate absence.

Mr. CALLAHAN. I submit that comments on Mr. Fitzgerald's attitude at this time is clearly out of order. Here is a simple proposition we have already decided, and I don't see how counsel should raise any objection. He knows the statute and knows the requirements.

(Witnessed suspended.)

Mr. O'CONNELL. Mr. Commissioner, at this time I am going to ask you to issue a subpoena to bring in the principal of this contest, whose absence at Palm Beach has made this delay necessary. If Mr. Fitzgerald were within these parts, where an officer could serve for the last week or 10 days, there would be no occasion for this delay. I don't know whether you will rule it is necessary to have an officer go to Palm Beach to take him out of the surf and bring him here to this hearing or not, but it does seem to me as though something ought to be done to bring before this commission, to put within access of those who are conducting it, a man who it is necessary to have served with these various papers, and since counsel here intend to be technical——

Mr. CALLAHAN. I submit, Mr. Notary, that the statute provides that notices shall be issued to the principal as suggested by Mr. O'Connell, or to his counsel. Mr. O'Connell knows perfectly well who is counsel for Mr. Fitzgerald, and in the first instance, when these names and these notices of this hearing was issued it was served upon Mr. Feeney and myself, and I accepted service. The absence of Mr. Fitzgerald has absolutely nothing to do with the delay, and if my friend has made mistakes, and if he is not able to conduct his hearing properly, I don't believe we ought to take him out of the hole. We are simply following strictly and carefully the legal requirements of the law.

Mr. O'CONNELL. My brother says he wants to be technical and wants me to follow the law. The law does not say we can serve on Mr. Fitzgerald or his counsel. It says on Mr. Fitzgerald or his agent. Will Mr. Callahan now state, in order that it may be understood, that he is the authorized agent of John F. Fitzgerald?

Mr. CALLAHAN. I have already stated that to Mr. Tague himself and to Mr. Harrington.

Mr. O'CONNELL. For the purpose of the record can we have it understood so there will be no question raised on this hereafter that you are the authorized agent of Mr. Fitzgerald?

Mr. CALLAHAN. I have agreed with counsel on the other side that if they would provide me with these notices I would accept service.

Mr. O'CONNELL. We still want an expression from you that you are his agent.

Mr. CALLAHAN. So far as the conduct of these hearings go I am counsel and agent of Mr. Fitzgerald, and I will accept service if counsel serves summons on me, proper summonses——

Mr. O'CONNELL. Mr. Tague has made a request that a summons be issued on John F. Fitzgerald to have him here, and I will ask your honor to issue a subpoena.

Notary BERMAN. If you, Mr. O'Connell, can show me that power I have to bring Mr. Fitzgerald here from Palm Beach or anywhere else, I will exercise that power.

Mr. O'CONNELL. You have the right to issue a subpoena and send it, and it will be turned over to the proper United States marshal, and I believe there are United States marshals in Palm Beach as well as in Boston.

Mr. CALLAHAN. If counsel will show you any statute and show you that you have that power and that right, Mr. Attorney, I will be glad to have Mr. Fitz-

gerald summoned. You have not been able to find it; I have not been able to find it.

Notary BERMAN. I have not looked for it.

Mr. O'CONNELL. I will show it to the judge; I am not going to show it to you.

JOHN T. GIBBONS, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. John T. Gibbons.

Q. Your address?—A. No. 107 Green Street, Boston.

Q. Your business?—A. Manager of the Boston Wholesale Millinery Co.

Q. You reside in ward 5?—A. Yes.

Q. Were you at ward 5 on primary day at one of the precincts?—A. Yes.

Q. Which precinct?—A. Precinct 8.

Q. You were there representing Mr. Peter F. Tague?—A. Yes.

Q. And were you there for the purpose of seeing the election was properly conducted?—A. So far as Mr. Tague was concerned; yes.

Mr. CALLAHAN. I object to that.

Q. What happened to you there on that primary day?—A. On that primary day nothing special happened except there was much intimidation by certain members of the Hendricks Club, interfering with men as they came to vote; getting many of the men to ask for Democratic assistance, and then the warden, who was a member or one of the Lomasney cohorts, would take the name down; and I appealed to the police officer to put reasons why they appealed for Democratic assistance, and they seemed to pay no heed to my argument, and then the argreement seemed to be——

Mr. CALLAHAN. I object to that.

Q. Tell us what was being done?—A. The voter would turn around and point out a certain member of the Hendricks Club, and the member would go in and mark his ballot for him. When the voter would come the two would take a little walk outside, and, I presume, he was paying for what he had done.

Q. They would disappear together; the man who had voted, and one of the members of the Hendricks Club? Were the members of the Hendricks Club prominent in the conduct of the election booth?—A. Yes; Patrick J. McNulty, in this particular precinct, is the boss of the Hendricks Club.

Q. How many other members of the Hendricks Club were there around there that day?—A. As many as a dozen.

Q. How many votes were taken in that way? The way you have described, by having the men write their ballots for them?

Mr. CALLAHAN. I submit this witness can not answer that. There is a record of that and it should be submitted properly.

Mr. O'CONNELL. There is no such record.

Mr. CALLAHAN. You know perfectly well there is a record of it.

Mr. O'CONNELL. I have gone over all those records, and you haven't.

Notary BERMAN. Note Mr. Callahan's objection, and you may proceed.

A. After four or five such votes were cast, I appealed to the police officer, and told him it was clearly intimidation, and put up quite an argument, but they seemed to decide that the——

(Objection by Mr. Callahan.)

Q. Go ahead and tell us what they did.—A. They decided that a man had a right to stop a voter when he came in, and I claimed that when a man came in and asked for Democratic assistance four or five times, it was fair for the police officer to assume that there was intimidation, in view of what was done, and the police officer said, No; he could not presume anything. So, we argued back and forth on it, and they stopped it for a little while, but later on in the day they started to continue. I should say there was anywhere from 10 to 15 votes cast that way, and I don't believe there was a record kept of them.

Q. In order that this may be clear in the record, do I understand you that when a man would be seen approaching the polls he would be accosted by some members of the Hendricks Club?—A. Yes, sir.

Mr. CALLAHAN. I object to that.

Notary BERMAN. Mr. O'Connell has a right to collect the evidence.

Q. And after he was accosted the man would then go to the polls and ask for Democratic assistance?—A. This happened right inside the polls—in the basement of the Washington School. There are several steps down, and, as he came down Mr. McNulty would step forward and greet him and stop a little while, and then he would go in and ask for Democratic assistance.

Q. And then who would be given him?—A. He would turn around and point and ask Mr. McNulty to mark his ballot.

Q. And, then, would Mr. McNulty go inside with the voter?—A. Yes.

Q. And, then, they would go into the booth and the voter would make out the ballot?—A. Yes.

Q. How many times did Mr. McNulty do that that day that you saw?—A. Mr. McNulty did it about 10 times.

Q. Who else did it?—A. I could not give you their names. A couple of the precinct officers marked ballots that day.

Q. They were members of the Hendricks Club, were they?—A. I believe so, but I could not say positively.

Q. Has that been the practice down there in that ward, if you know?—A. That is the practice all the time.

(Mr. Callahan's objection noted.)

The WITNESS. Yes, that has been the practice down there ever since the time that they were allowed to have some one else mark their ballot for them.

Q. Describe Mr. McNulty's manner. You say these men were intimidated? How was McNulty acting around there?—A. On the primary day he was pretty fair. He was not so drastic as he was on election day, but on primary day as the different ones came in he would speak to them or his usual procedure is that they have a sample ballot of Lomasney's there and they go up to him. They go in and mark that ballot and leave it in the booth. I appealed to the warden usually to take those sample ballots out of the booth, but McNulty usually stopped and spoke to them and these men went in and asked for Democratic assistance.

Q. What booth were you at on election days?—A. The same one.

Q. Did you have a list of those to be challenged by you there that day?—A. Yes, sir.

Q. Describe what took place on election day?—A. On election day I arrived at precinct 8 alone at 10 minutes to 6. There were two police officers there and I believe four precinct officers. The booth opened at 6 o'clock and McNulty came over to me and says, "Are you going to be fair here to-day, Gibbons? If you are going to make trouble, we can make trouble, too."

Q. Did he hold any official position there, Mr. McNulty?—A. Nothing more than a representative of Lomasney and Fitzgerald.

Q. What did you say to his challenge?—A. "Are you going to challenge?" and I said, "Yes, only those I know and believe to be illegally registered." So the first couple of votes that came in were on my list, among the first five or six, and I challenged them and immediately there was a holler put up.

Q. By whom?—A. McNulty, and the warden refused to accept the challenges, and at 6.20 I was outside.

Q. How did you get outside?—A. The warden appealed to the officer to put me out on two or three different occasions, but the officer knew I was not at fault and refused to take his orders, so the warden asked a couple of citizens to put me out and I appealed to the warden and said, "Mr. Tague hasn't any representative here. I have his stickers." It didn't make any difference, I was put out.

Q. How was that done?—A. A citizen grabbed my arm and as there was no other way, I walked out.

Q. Do you know who he was?—A. Yes.

Q. Who was he?—A. I don't know his name.

Q. Was he a member of the Hendricks Club or affiliated with them?—A. He is a member of the Hendricks Club.

Q. What happened when you went outside?—A. I believe that is the time that McNulty voted. The idea was to get me outside.

(Mr. Callahan's objection noted.)

Q. While you were outside did you ascertain afterwards whether or not McNulty voted during that time?—A. No, I didn't, but on the check list I noted he did vote during the day, so I presume it was at that time.

(Mr. Callahan's objection noted.)

Q. Where does Mr. McNulty live?—A. In Beachmont.

Q. In a town outside of Boston?—A. Yes, sir.

Q. And he has lived there for some years?—A. Yes.

Q. And not in the district?—A. No.

Q. Nor in that ward?—A. No, sir.

Q. What happened then?—A. Then I went down and telephoned over to Mr. Tague's house and told his wife to send Mr. Tague over immediately.

Q. Did Mr. Tague come?—A. I went back to the precinct and waited outside and he came there in about 20 minutes. Then Mr. Tague went inside and I told him the circumstances, and after being in there 10 or 15 minutes, finally they allowed me to go back in there. Mr. Tague stayed with me about half an hour.

Q. During that time did you challenge anybody?—A. Yes.

Q. How many?—A. Several, I should say seven or eight.

Q. On what grounds?—A. On the ground of illegal registration.

Q. People who lived in the ward?—A. Did not live in the ward.

Q. Did the warden allow you to write your name on the ballot?—A. He appealed to me and I refused because I didn't have to write my name on the ballot.

Q. Tell us what happened when Mr. Tague was there?—A. Things went along quietly for a little while, then a few more came in and I continued challenging the one I had on the list to challenge, and Mr. McNulty started threatening and parading up and down in back of me and said he wanted fair play and the warden was very antagonistic and wanted to pick an argument with me, but having done that work before I was trying to keep cool.

Q. Did the police officer have occasion to tell McNulty to stop his practice?—

A. Yes; he remonstrated with him several times and said I was right and the warden was wrong, but the warden said he was in complete charge, that the police officer didn't have anything to do with the election. Then, about quarter of 8, McNulty said he was going to have fair play, and in about 15 minutes about 20 fellows appeared there. They came inside to the door of the school and I told the police officer they had no right there and should be put out, but the police officer knowing the power of the Hendricks Club was afraid to do anything.

Q. What did he do?—A. He didn't do anything—said everything was all right.

Q. What happened?—A. Mr. Glinn, who had been working at the precinct 7 for me came up and said he would not stay down in precinct 7; that things looked rather bad down there, so I said "Stay here with me."

(Objection by Mr. Callahan.)

A. He went over and sat in the chair and one of Lomasney's gang grabbed hold of me by the arm and said, "I won't stand for that." I was talking to another fellow there about Mr. Glinn being frightened, and he said he would never know it was the twentieth century in politics. Immediately I pushed him away. He said, "You mind your own business" and I appealed to the officer, but this all seemed to be prearranged, because the minute he touched my arm the warden ordered us both out of the ward room, and the officer refused to put me out for the time being—Sergt. Lewis, and we argued back and forth with the warden, and once again he appealed to the citizens to put me out and ordered me out for the day and, of course, the idea was I was alone there and they ordered me out, and also one of Lomansey's henchmen. There were 19 or 20 in there and they were all right, but there was nobody in there to represent Mr. Tague.

Q. The officer told you to stay out the rest of the day?—A. The warden.

Q. And in that way you were prevented from making any more challenges?—

A. Yes; I went outside and handed out stickers for a while and talked to Officer Lewis and he said "Go to election board and see what we can do." Having been down to the election board on previous occasions I didn't have much hopes, but I walked up to Tague's office and Mr. Kane telephoned over and found that the warden was in entire authority and he could not put anybody out at any time if, as he said, they were raising a disturbance of any kind.

Q. Had you been raising a disturbance of any kind?—A. Nothing except challenging the votes, and that was considerable disturbance in their estimation.

Q. How many votes to be challenged in that precinct of men who didn't live there?—A. About 125.

(Objection by Mr. Callahan.)

A. Also the warden refused to take many of the challenges.

Q. How many challenges did he refuse to take?

Mr. CALLAHAN. While he was there?

A. I was there all the time.

Q. Don't be bothered by him, answer my question. How many challenges did he refuse to take from you?—A. I should say there were seven or eight he said were not challenged correctly.

Q. Did you give the reason to him why you were challenging?—A. Always on the ground of illegal registration.

Q. And he refused to take it?—A. Yes.

Q. What was the man's name?—A. John Manney.

Q. Where does he live?—A. Ward 5; I don't know just his address.

Q. And a member of the Hendricks Club?—A. I presume so. I am not positive. The members of the Hendricks Club do not have their membership open to citizens to look over. He is a member of St. Joseph Temperance Society and auxiliary of the Hendricks Club.

Q. That is John F. Fitzgerald's organization, is it? Did you challenge Joseph Walsh on primary day?—A. Yes; I did.

Q. On what ground?—A. Illegal registration.

Q. Does he live in the ward?—A. No, sir.

Q. Where does he live, if you know?—A. In Jamaica Plain.

Q. Another part of Boston?—A. Yes.

Q. And not in this congressional district?—A. Not in the district.

Cross-examination by Mr. CALLAHAN:

Q. You were one of Mr. Tague's spellbinders?—A. I was trying to.

Q. And you are trying to be now?—A. Not necessarily.

Q. You went night after night from street corner to street corner and speaking for Mr. Tague?—A. Yes, sir.

Q. And you spoke for him days—during the daytime?—A. No, sir.

Q. You were interested very much in the capacity of Mr. Tague?—A. Yes.

Q. And you have an intense dislike for Mr. Lomasney?—A. Not a dislike; no, sir.

Q. Have you any real liking for Mr. Lomasney?—A. Personally, I have no objection to Mr. Lomasney, no dislike.

Q. Any very tender regard for Mr. Lomasney, have you?—A. Mr. Lomasney, so far as I know personally, is all right, but his methods are not.

Q. And you object to Mr. Lomasney on account of his methods, don't you?—A. I don't know as I object to him at all.

Q. Didn't you talk every night around the district on Mr. Lomasney's methods?—A. Yes.

Q. And you believe he is responsible for his own methods?—A. Yes; I know he is.

Q. And if his methods are objectionable to you, he personally would be objectionable, wouldn't he?—A. I presume so.

Q. You have a very bitter dislike for Mr. Lomasney?—A. Politically; yes.

Q. And there is not much you wouldn't do or say about Mr. Lomasney and what you term his methods?—A. Yes; there is lots I wouldn't say.

Q. What are the limitations?—A. I confine what I say about Mr. Lomasney to absolute facts and nothing else.

Q. And during these years you went throughout the district abusing Mr. Lomasney and his methods?—A. I abused his attempt at a political monopoly.

Q. And his methods lead to this political monopoly?—A. Yes.

Q. And you have been a candidate in Mr. Lomasney's ward, haven't you?—A. Yes.

Q. And a candidate for what?—A. House of Representatives and constitutional convention.

Q. How many times?—A. Once in each.

Q. And those were in two separate years?—A. Yes, sir.

Q. Ever a candidate for the Senate in that district?—A. I was a candidate and withdrew and did not run.

Q. When you were a candidate for the legislature, how many votes did you get?—A. I should say 312.

Q. And what year was that?—A. In 1915 and 1916.

Q. Did you ever ask Mr. Lomasney or his friends to support your candidacy?—A. No, sir.

Q. In either one of those years did you ask him to help you in your candidacy?—A. I would not want his support; no.

Q. Answer my question—did you ask him?—A. Of course I didn't ask, when I wouldn't want his support.

Q. You didn't ask him?—A. I didn't ask him.

Q. You like to be known as a firm and bitter opponent of Mr. Lomasney in his district, don't you?—A. I never seek advertising along those lines; no.

Q. Haven't you said you were the leader of the opposition in Mr. Lomasney's district?—A. I never said that in my life, because at that time I was not the leader.

Q. Are you the leader now?—A. I don't know. I don't believe so.

Q. Do you regard yourself as the leader of the opposition?—A. Not just now. At present I am not in politics at all.

Q. Have you been regarded as the leader of the opposition to Mr. Lomasney in his district? In the last two years?—A. In the Tague contest, that is all.

Q. You were the recognized leader of the opposition, is that so?—A. Yes, sir.

Q. What precinct do you live in?—A. Five.

Q. And on primary day and election day you were at precinct 8?—A. Yes, sir.

Q. How long have you lived in precinct 5?—A. I should say nine years.

Q. And did you ever live in precinct 8?—A. No, sir. I lived in precinct 1, which at one time was precinct 8.

Q. This list of names which you had, were they names given you by somebody else? Can you answer that yes or no?—A. I say they were not.

Q. Were they a list of names you had compiled yourself?—A. A part of them; yes.

Q. Who compiled the rest of them?—A. The majority of them were compiled by myself.

Q. Isn't it a fact that was a list that you had got hold of at Mr. Tague's headquarters?—A. No, sir; I made up the most of that list myself.

Q. For that particular precinct?—A. For all the precincts in that ward.

Q. Have you got that list now?—A. No, sir.

Q. Did you know the names or did you know the men whose names were on that list?—A. The majority of them, yes, by sight.

Q. You don't know whether or not they lived there, do you?—A. I knew they didn't live there.

Q. How do you know that?—A. Because I am a resident of the ward and am around there every night in the week.

Q. That the only reason?—A. On April 1 I was one of a dozen on different occasions that covered the different hotels when Mr. Lomasney was putting these same voters in there to vote.

Q. Did you on April 1, or at any other time, go to any of these houses to find out whether these men lived there?—A. Personally, no; I stayed outside.

Q. You didn't inquire yourself?—A. No, sir.

Q. So that from your own knowledge and investigation you might have made you didn't know whether they lived in the ward or not?—A. I knew they didn't live in the ward.

Q. From your own knowledge?—A. From my own knowledge.

Q. And you made no investigation yourself?—A. Some; yes.

Q. Do you want to have it go down here and swear to it that you made any investigation?—A. I made an investigation.

Q. No personal investigation?—A. I made a personal investigation of the telephone directory and the Boston City Directory.

Q. Let us see if you want to change your answer. I think you told me a few minutes ago that you didn't make any personal investigation yourself; that is that you didn't go to these houses personally to see whether or not these men lived there?—A. I made the investigation two or three years before and also this year. I had been on this illegal registration work before.

Q. Just answer the question. Did you, personally? You said you did not. Did you personally on the 1st day of April or at any other time between the 1st of April and the primary of last year go to the house where these men were registered to see whether or not they were legal and bona fide residents?—A. I did not go to the houses.

Q. Will you tell us, please. You took that list and without making any such investigation you concluded that these men were illegally registered; is that so?—I investigated that list before I challenged anybody.

Q. What investigation did you make of that list?—I consulted the telephone and the Boston directory.

Q. But didn't it occur to you that the right way to make an investigation was to go to these houses and see whether or not these persons lived there?—A. Go there in September?

Q. Any time between April and September?—A. It didn't occur to me. That would be foolish. Do you understand what kind of houses these were?

Q. Please answer my question and nothing else. I am asking the question, and not Mr. O'Connell. You spoke of intimidating on primary day?—A. Yes, sir.

Q. You said you were the only worker there for Mr. Tague?—A. On primary day; yes. There was another young man named Lebosky.

Q. Men voted there who asked for assistance?—A. Democratic assistance.

Q. You were interested in the candidacy of Mr. Tague?—A. Yes.

Q. And if somebody came in there whom you knew, I suppose you felt you would have the right to ask them to vote for Mr. Tague?—A. I didn't do any such thing.

Q. You felt you had the right to ask them to vote?—A. Not within 125 feet of the polling booth.

Q. You knew you didn't have the right?—A. Yes.

Q. And if you were very much interested in his candidacy and a friend of yours came along 75 or 100 feet away, whether you would ask him to vote for Mr. Tague?—A. I was inside the booth.

Q. If you were within 75 or 100 feet?—A. If I was outside 125 feet I might.

Q. You wouldn't do it at 124 feet?—A. No.

Q. That day, as a matter of fact, did you ask anybody to vote for Mr. Tague?—A. Not on that day; no.

Q. You confined all your efforts to spellbinding?—A. Not all of them; no.

Q. You say you didn't make any attempt to challenge on primary day, did you?—A. Yes; I challenged three, I believe.

Q. Are you clear as to whether that was primary day or election day?—A. Primary day.

Q. You know the names of the three men you challenged?—A. Two of them they wouldn't accept, and one they did, and that was Joseph Walsh.

Q. Two they wouldn't accept?—A. They paid no attention to me.

Q. That was primary day?—A. Yes.

Q. And that was the day you were led out, was it?—A. No; that was election day.

Q. Primary day there was no objection to your being there at all?—A. No; there wasn't.

Q. And no intimidation there that day?—A. Yes.

Q. What did it consist of?—A. Having these men ask for Democratic assistance and also stopping them and giving them Martin Lomasney's sample ballot.

Q. And that you regard as intimidation?—A. That is intimidation.

Q. All that was done was that somebody accosted a voter? Didn't stop them physically?—A. Yes.

Q. Grab hold of them?—A. Yes.

Q. How?—A. Grab them by the arm: "Come over here a minute."

Q. In a friendly way?—A. Yes.

Q. And says, "Here is a sample ballot. Will you vote this way?"—A. Yes.

Q. And the voter would pass on and go in and vote?—A. Yes.

Q. Is that all that was done?—A. Yes.

Q. And that is what you call intimidation?—A. That was intimidation.

Q. That is what you call it?—A. Yes; I call it that.

Q. You know, of course, that men have the right to ask for assistance at primaries and elections?—A. Yes, sir.

Q. And you know the formalities that are required under those circumstances?—A. Yes; I know them.

Q. Tell us what is required to be done?—A. They are supposed to swear that they are incapacitated, and the reason is supposed to be put on the records of the warden.

Q. And what else?—A. What you mean; "what else"?

Q. What else is required?—A. That is all that is required. Then they have the right to have anybody they want to mark their ballot.

Q. They have the right themselves, and aren't they told the right by the warden?—A. On some occasions.

Q. On all these occasions, as a matter of fact, didn't the warden tell these men that they had the right to choose anybody to mark their ballot?—A. Not all of them; some of them they did.

Q. You said you challenged three, at least, on primary day?—A. Yes.

Q. And that they were not considered by the warden?—A. Yes.

Q. Did you call that to the attention of the police officer?—A. Yes, sir.

Q. Who was that police officer?—A. I don't remember now.

Q. You would know him if you saw him?—A. No; I would not.

Q. Did you ask him his name?—A. No, sir.

Q. Number?—A. No, sir.

Q. Try to identify him in any way?—A. No.

Q. Didn't think that was of any consequence? Anybody else you know you can bring here to testify to what you say, that was present?—A. No; not that was present there.

Q. So you are the only one who can testify to this that you know of?—A. On primary day; yes.

Q. On election day, you say, there were 10 or 15 challenges that you made?—

A. I made more than 10 or 15.

Q. How many did you make?—A. I should say about 40.

Q. And was that the day you were removed from the booth?—A. Yes, sir.

Q. And the police officer was there when you were removed?—A. Yes.

Q. Did you appeal to him?—A. Yes, sir.

Q. And wasn't that an assault? A man grabbed hold of you, did he?—A. Not that I would call an assault. He escorted me.

Q. Did you go as easy as that?—A. Yes; I went out as easy as that.

Q. Weren't you interested in Mr. Tague's candidacy?—A. It was no use.

Q. Didn't you think he wanted a representative there?—A. Yes.

Q. And you went out without a protest?—A. I told you before I protested.

Q. This fellow just led you out this way? Took your arm, and said "Come on"?—A. He didn't even take my arm; I walked out. The warden told me to go out, not him. The police officer told me I had better go.

Q. Didn't you say you appealed to a citizen, and the citizen took you along?—

A. Didn't take me out; I walked out with him.

Q. Walked out with you?—A. That is all.

Q. Didn't you say on direct examination he put you out?—A. He didn't put me out. The warden ordered me out, and I went out. I appealed to the police officer, and he said I would have to go.

Q. What was his name?—A. Sergt. Lewis.

Q. And was he there when this fellow ordered you out?—A. Yes, sir.

Q. Didn't you say at some time that you were led out, and the warden appealed to this citizen, who was a member of the Hendricks Club?—A. I may have said I was led out, but I didn't mean it. The warden told the police officer that he ordered me out for the day, and the officer said, "You are all right. You are making more trouble than this man is yourself," but the warden said, "I appoint Mr. ——— to see that Mr. Gibbons goes out." The police officer said "You had better go out; the warden is in charge."

Q. You went out of your own accord?—A. I walked out. I didn't tell you about the 12 that followed me out, either.

Q. Have you got the names of the men whom you were challenging on election day?—A. Have I got them now?

Q. Yes?—A. No; I have not.

Q. Did you know the names of them that day?—A. Yes, sir.

Q. And on all these challenged votes, did you give your name as the challenger?—A. Yes, sir.

Q. And your reason?—A. Yes.

Q. And weren't they accepted?—A. Some of them were and some of them were not. The warden was very antagonistic.

Q. You made 40 challenges?—A. I should say about 40.

Q. Do you know how many were accepted by the warden?—A. I never heard of them from the election board.

Q. Did you inquire?—A. Yes; but they said they couldn't tell me offhand.

Q. Wasn't it possible for you to find out right there whether the warden accepted your challenge or not?—A. On some occasions it was. On some occasions he would not even answer me.

Q. When you challenged a vote you said, "I challenge that vote"?—A. Yes.

Q. Did you give your reason for it?—A. Yes.

Q. Then the warden either accepted that challenge or he didn't. Isn't that so?—A. Sometimes he did and sometimes he paid no attention.

Q. He did or he did not?—A. He did and he did not.

Q. How many times did he accept your challenges?—A. I could not say off-hand.

Q. Didn't you keep a record of them?—A. No, sir; I didn't keep a record of those he accepted or didn't accept.

Q. Didn't keep a record of them?—A. No, sir.

Q. So you can not tell out of the 40 challenges how many the warden recognized?—A. I should say he answered me about 19 or 20 times.

Q. And it was when those challenges were recognized that the formalities would be carried out of writing your name and the reason and the name of the challenger?—A. Yes.

Q. Did you testify before the ballot law commission?—A. No, sir.

Q. Were you there?—A. On one occasion.

Q. Did you stay there the whole day?—A. No, sir.

Q. Were you there only once?—A. That is all.

Q. You were asked to testify?—A. No, sir.

Q. Did you tell anybody before the hearing that you had challenged these votes on primary day—any time before the hearing?—A. No; I didn't tell anybody.

Q. Didn't you testify, sir, that when they refused to accept these challenges on primary day that you went to the office of Mr. Tague?—A. Yes, sir.

Q. Then you did tell somebody about challenging these votes on primary day?—A. Not on primary day. I didn't go to the office of Mr. Tague.

Q. Didn't you tell us on direct examination?—A. Not on primary day.

Q. On election day?—A. Yes.

Q. On primary day you didn't go to Mr. Tague's office?—A. Not until the evening.

Q. Did you tell him about the conduct of affairs there that day?—A. Yes, sir.

Q. And did you tell him about these persons refusing you the right to challenge?—A. Yes.

Q. And did you tell him about those activities that was going on?—A. Yes.

Q. Did you tell his counsel, Mr. O'Connell?—A. Yes.

Q. Did you tell Mr. Kane, his secretary?—A. Yes.

Q. So that at the time of the hearing before the ballot law commission they knew what you have testified to here to-day?—A. Yes.

Q. And during all that time you were a sincere advocate of Mr. Tague's candidacy?—A. Yes, sir.

Q. And they didn't ask you to testify before the commission? Is that so?—A. Yes, sir.

Q. Neither Mr. Kane or Mr. Tague or Mr. O'Connell asked you to testify before the commission?—A. I understood that I was to testify, but I was never called.

Q. Please answer my question.—A. You must remember I work 365 days in the year.

Q. Did Mr. Kane, Mr. Tague, or Mr. O'Connell ask you to testify before the ballot law commission? Yes or no?—A. I was not called before the board, but I understood I was to be called.

Q. Let us see.—A. I am going to answer it that way. I can not answer it yes or no.

Q. You can't? Why not?—A. I can not.

Q. Why?—A. Not the way you ask it.

Q. Let us divide it. At any time, sir, before the hearing at the office of the ballot law commission did either Mr. Tague or Mr. Kane or Mr. O'Connell ask you to testify?—A. Yes.

Q. They did?—A. Yes.

Q. Which one of them?—A. Mr. Kane.

Q. Did he ask you to come to the commission to testify?—A. Yes.

Q. And did you go there to testify?—A. Yes.

Q. Why didn't you testify?—A. I wasn't called. I could not stay there.

Q. How long did you stay there?—A. About an hour and a half.

Q. Was there somebody on the stand all the time you were there?—A. There were different ones.

Q. And when you went there, Mr. Gibbons, did you say, "I came here and I haven't much time and I would like to testify"?—A. No; I didn't.

Q. You simply came into the room and sat down, and didn't care whether they knew you were there or not?—A. I sat alongside of them.

Q. They did know you were there?—A. Yes.

Q. You didn't ask them to put you on the stand to testify?—A. Yes.

Q. But you are sure you told them about this alleged intimidation?—A. I told them about the intimidation.

Mr. O'CONNELL. Let me furnish you now with this list of witnesses.

Mr. CALLAHAN. And as I agreed, I will accept service.

Redirect by Mr. O'CONNELL:

Q. You were asked if you went to the house. What kind of houses was it they were supposed to be registered from?—A. What I would call one-night hotels.

Mr. CALLAHAN. I object to what he calls them.

(Mr. Callahan's objection noted.)

Mr. O'CONNELL. Everybody understands what that means.

I want to call your attention to section 280 of chapter 835, acts of 1913, which provides, in substance, that no postal card, handbill, placard, picture, or other similar subject shall be posted, etc., in the polling place. Patrick McNulty had these sample ballots within the polling booth?—A. Yes, sir.

Q. He was a Lomasney man?—A. Yes.

Q. He was distributing them within the booth?—A. Yes, sir.

Q. And the voters he gave them to took them inside?—A. Yes.

Q. Describe the practice and the significance of the practice in ward 5, as it was understood, of approaching a man who was about to vote and then getting somebody to ask to have somebody mark his ballot for him. What was the importance and significance of that?

Mr. CALLAHAN. I object to his testifying as to the custom and the significance of the custom as understood by others.

Notary BERMAN. If you know you can testify.

(Mr. Callahan's objection noted.)

A. Ordinarily when there is any doubt as to whether a man is with the Hendricks Club they have them vote that way. They have them ask for Democratic assistance, so, as they say, to know he is all right.

Q. And a man does not dare to refuse them?—A. Ordinarily; no.

Q. How many followed you out when you were ordered to go at that time?—A. About 10.

Q. And they were the Hendricks Club followers?—A. I don't know whether they were members or not. They were young men there in the interest of Lomasney and Fitzgerald.

Q. This investigation you made of these voters not living in the ward, was that done with the assistance of others?—A. Yes.

Q. Others who were interested in purging ward 5 of illegal voters?—A. Yes.

Mr. BROGNA. When counsel confer with each other as to what evidence should go in they should confer far enough from the witness so as not to hear what was said.

Notary BERMAN. I don't think Mr. O'Connell has done anything here to justify that to go into the record.

Mr. O'CONNELL. I ask that his remarks should be stricken from the record.

Notary BERMAN. The record may stand as it is with the understanding that the court has not noticed any misconduct on the part of Mr. O'Connell or his associates.

By Mr. BROGNA:

Q. Can you give us the names of the 10 young men who followed you out, Mr. Gibbons?—A. Not all of them.

Q. Can you give us the names of any of the young men that followed you out?—A. No; I can not.

Q. Did they accost you as they walked out?—A. No.

Q. How old are you, Mr. Gibbons?—A. 28.

Q. How much do you weigh?—A. 195 pounds.

Q. This investigation you said was conducted by others. Did you see personally in what way it was conducted by the others?—A. Yes; I helped them.

Q. And who was it conducted by?—A. Several others.

Q. Who?—A. Different ones.

Q. Who? Give us their names?—A. Michael J. Flynn was one.

Q. When?—A. Previous to the primary.

Q. After April 1, 1918?—A. Yes, sir.

Q. Who else?

Mr. O'CONNELL. You don't need to give those names unless you want to.

A. There were others that helped me.

Q. Who were they?—A. Young men.

Q. What are their names?—A. I would not tell you their names.

Q. You won't give the names?—A. No.

Q. Do you know them?—A. Some of them.

Q. Do you know the names of others than Michael J. Flynn who helped you?—A. Yes.

Q. And you won't give the names?—A. Not necessarily.

By Mr. O'CONNELL:

Q. I don't know as I took up the matter of the threats made against you that day, but I am going to ask you to tell me, along with the threatening attitude

of Patrick McNulty, what threats were made and just how they were made to you?

(Objection by Mr. Brogna as to the characterization of the attitude of some person.)

Notary BERMAN. I think the question is proper.

Mr. O'CONNELL. I want to say that if this witness has been threatened I have a perfect right to bring that into the record.

Notary BERMAN. I have noted the objection, and the witness may proceed.

A. There were different indirect threats that they would get me, and different insinuations made on election day. The young man I told you about, Mr. Lebosky, was actually threatened with a punch in the eye in the polling booth.

Q. Was he punched in the eye?—A. No; but they threatened to do it, and the police came over, and the young man who threatened to do it was just recently released from jail. This young man was handing out stickers and this fellow bumped up against him and said, "I will punch you in the eye." He said, "Who are you talking to, you jailbird?" and the police officer came over and separated them, and he was one of the gang that followed me outside.

Q. When they said they would get you, what did you understand by that?—A. I understood—naturally when 10 or 12 of them appeared down there and when Patrick McNulty said he was going to have fair play these 10 or 12 appeared suddenly and kept walking back and forth in back of me trying to get their courage up to give it to me.

Q. What did you understand? A. I understood they were trying to get the check list away from me.

Q. What did you understand by the expression "they would get you"?—A. Meant a beating. There was no other way they could get me.

Q. How long have you lived in the West End?—A. Twenty-five years.

Q. Living there now?—A. Yes, sir.

Q. Have you been beat up yet?—A. No, sir. Do I look it?

JOHN T. GIBBONS.

Mr. O'CONNELL. Notice has been served on Mr. Callahan of the witnesses who will be examined next Monday. Mr. Callahan has accepted it and it is read into the record as having been properly served on him.

Notary BERMAN. All witnesses who have been summoned and who have not been heard will be here on Monday morning at 10 o'clock.

This hearing is adjourned until Monday morning next at 10 o'clock.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

DORA H. BARNES.

BOSTON, MASS., May 5, 1919.

Personally appeared above Dora H. Barnes and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 125 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me under oath in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

Boston, Mass., May 5, 1919.

ABRAHAM C. BERMAN,
Notary Public.

Mrs. AGNES HURLEY.

Direct examination by Mr. O'CONNELL:

Q. Your full name is what, Mrs. Hurley?—A. Agnes Hurley.

Q. Where do you live, Mrs. Hurley?—A. 10 Oregon Street, Roxbury.

Q. And you are the wife of John Hurley?—A. Yes, sir.

Q. And how long have you lived with your husband at 10 Oregon Street, Roxbury?—A. Be there three years next May.

Q. And you live there with your family?—A. Yes, sir.

Q. You never lived at the Hotel Lucerne, in Boston, of course?—A. No, sir.

Q. And your husband is a carpet layer?—A. Yes, sir.

Q. What does your family consist of?—A. Two children.

Q. Two young children?—A. Yes, sir.

Q. What are their ages?—A. One three years and the other a year and five months.

Q. Your husband votes in Roxbury, if you know?—A. I don't know that.

Mr. CALLAHAN. Just a moment; I object.

Q. Do you know where your husband votes?—A. No; I don't.

Mr. O'CONNELL. That's all. Mr. Hurley, take the stand, please.

JOHN HURLEY.

Direct examination by Mr. O'CONNELL:

Q. What is your name, Mr. Hurley?—A. John Hurley.

Q. You are the husband of Mrs. Hurley, who has just testified?—A. Yes, sir.

Q. What is your business?—A. Carpet layer.

Q. You work for whom?—A. C. C. Bailey, 48 Canal Street.

Q. Where do you live?—A. 10 Oregon Street, Roxbury.

Q. Where do you vote?—A. In ward 10, precinct 2.

Q. Did you vote there on election day?—A. No, sir.

Q. Be good enough to write your name on that [giving witness summons to write upon]. (Paper marked "Exhibit 23.")

(Colloquy:)

Q. That is your handwriting?—A. Yes, sir.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. No questions.

Q. Just one more question. You were registered last April from 10 Oregon Street, Roxbury?—A. Yes, sir.

Mr. O'CONNELL. That's all.

FRANK G. SMITH.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Frank G. Smith.

Q. And what's your business?

Mr. BROGNA. What's his name, please?

The WITNESS. Frank G. Smith.

Q. What's your business?—A. Bookkeeper.

Mr. BROGNA. What's his address?

Q. Where do you live?—A. 61 Hillside Street, Roxbury.

Q. You are not married?—A. No, sir.

Q. And live with your father and mother at 61 Hillside Street?—A. Yes, sir.

Q. Any others in the family there?—A. No, sir.

Q. Just your father and your mother?—A. Yes, sir.

Q. How long have you lived there?—A. 20 years.

Q. With your father and your mother all that time?—A. Yes, sir.

Q. What's your father's business?—A. City weigher.

Q. Where?—A. Southampton Street.

Q. What's your father's full name?—A. John C. Smith.

Q. Where do you vote?—A. I don't vote.

Q. Have you ever voted?—A. No, sir; I wasn't of age until January 30.

Q. Do you know where your father votes?

Mr. CALLAHAN. Wait, wait.

Mr. BERMAN. If he knows.

(Colloquy.)

Mr. BERMAN. Note Mr. Callahan's objection.

Q. Go ahead, Mr. Smith, please. Do you know where your father votes?—A. I know that he votes in ward 14, the Coleman School.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. No questions.

FRANK G. SMITH.

Mrs. MARY MURPHY.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Mary Murphy.
 Q. And you live at 184 Gold Street, South Boston?—A. Yes, sir.
 Q. And how long have you lived there?—A. I have lived there 17 years.
 Q. You live with your son, Dennis J. Murphy?—A. Yes, sir.
 Q. What does he do?—A. He is a painter.
 Q. And works for the New York, New Haven & Hartford Railroad?—A. Yes, sir.
 Q. This is your son with you, here?—A. Yes, sir; that's my son.
 Q. Dennis J. Murphy?—A. Yes.
 Mr. O'CONNELL. That's all, Mrs. Murphy.
 Mr. CALLAHAN. No questions.

DENNIS J. MURPHY.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Dennis J. Murphy.
 Q. And you live where?—A. One hundred and eighty-four Gold Street, South Boston.
 Q. And your business?—A. Painter, New York, New Haven & Hartford Railroad.
 Q. How long have you lived on Gold Street?—A. About 17 or 18 years.
 Q. Where do you vote?—A. Corner of D and Gold Streets, precinct 5, ward 9.
 Q. This was your mother who testified?—A. Yes, sir.
 Q. Would you mind giving us your signature on that?—[Giving witness paper.]
 A. Anywhere?
 Q. Yes; anywhere.
 (Paper marked "Exhibit 24.")
 Mr. O'CONNELL. That's all, Mr. Murphy.
 Mr. CALLAHAN. Wait a minute.

Cross-examination by Mr. CALLAHAN:

- Q. Did you vote in South Boston last election day?—A. Yes.
 Q. Did you vote there on the primary?—A. I think I did.
 Q. How old are you, Mr. Murphy?—A. Forty-five.
 Q. And how high are you?—A. Five feet five.
 Q. How much do you weigh?—A. One hundred and seventy-three.
 Q. What's the first year you voted in Boston?—A. I don't know the exact date, when I was 21.
 Q. You have voted every time since then?—A. Yes, sir.
 Q. Always in South Boston?—A. Yes, sir.
 Mr. CALLAHAN. All right.
 Mr. O'CONNELL. You never voted down in ward 5?
 The WITNESS. No.
 Mr. O'CONNELL. That's all.

Mrs. GEORGE MOONEY.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Philester M. Mooney.
 Q. You are the sister of Sylvester De Rosa?—A. Yes, sir.
 Q. Mr. De Rosa is in the liquor business?—A. No; bartender.
 Q. Where do you live?—A. Seven sixty-one Broadway, Somerville.
 Q. And does your brother live with you?—A. No.
 Q. Where does your brother live?—A. He is a single man. I don't know where he lives. I guess in town. He stays wherever he feels like it.
 Q. How much time does he stay with you?—A. Very little.
 Q. What do you mean by that?—A. It might come a stormy night and it was getting late and he might stay all night, otherwise—I'm his sister, it is my home, and he is welcome to it if he feels like staying, but if he don't feel like staying he goes.
 Q. He has the key to your home?—A. Yes, sir.
 Q. So he comes in at all times he pleases?—A. He don't come very often.
 Q. But he has the key and he can come any time he pleases?—A. Yes; it is my home; it is my home and he is welcome to it.

Q. He doesn't live at any other place you know of?—A. I think Hotel Lucerne, if that's the place, in the West End.

Q. Did you ever call on him in the West End at the Hotel Lucerne?—A. No.

Q. Any of your family ever call on him?—A. No, sir; we didn't have any occasion to call on him; he does all the calling.

Q. You don't know where it is?—A. Yes; it is the old Hampton House on Causeway Street.

Q. Ever seen it?—A. Yes, I have.

Q. Do you recall telling anything about your brother to anyone in effect that he has always lived with you?—A. No, I don't.

Q. Outside of some nights he has stayed away on some business he has always come home?—A. No; I don't know.

Q. Have you talked about your brother to anyone?—A. There was a man came to the house not long ago. I don't know who he was looking for. I suppose he was looking for him. I told him he could find him over there, or at his place of business. I told him I never knew when he could find him at my house, because he only came at intervals.

Q. Where is his place of business?—A. On Causeway Street.

Q. Who does he work for?—A. I think a man named Mr. Ryan.

Q. How long has he worked for Ryan?—A. I guess he has been there three or four years.

Q. Have you talked with your brother recently?—A. Recently? Yes; he was out to my house three days ago.

Q. And that was right after you got the summons?—A. Yes; after I got the summons.

Q. You notified him?—A. I told him I had it.

Q. And he came out to talk with you about it?—A. Oh, yes.

Q. Did he tell you where he was living?—A. Yes; he told me then if I wanted him, he said "You know where you can always find me."

Q. You and he discussed where he lived and discussed about the Tague and Fitzgerald contest?—A. No; I didn't know anything about it. I didn't want to be brought into this matter.

Q. You didn't want to be brought into it, but you told him, you discussed with him?—A. I told him I didn't think it was necessary for me to be here.

Mr. O'CONNELL. That's all.

Mrs. KATHERINE CROWLEY.

Direct examination by Mr. O'CONNELL:

Q. What is your name?—A. Mrs. Katherine Crowley.

Q. You are the wife of Daniel J.?—A. Yes, sir.

Q. And you live at 37 Wolcott Street, Everett, Mass.?—A. Yes, sir.

Q. How many children have you?—A. I haven't any children. My husband has children.

Q. How many; two?—A. Two.

Q. Where do those children go to school?—A. They don't go to school. They are about 30 years of age.

Q. Live with you?—A. Live with me; yes.

Q. And with Mr. Crowley?—A. Yes, sir.

Q. That is, the four of you live together?—A. Together.

Q. They are not married, as I understand?—A. Not married.

Q. Now, what is Mr. Crowley's business?—A. Mr. Crowley works for Swallow, Fales, City Square, Charlestown, groceries.

Q. That is liquor business?—A. Grocery.

Mr. HARRINGTON. And liquors.

Mr. O'CONNELL. Groceries and liquors.

Q. How long have you lived at 37 Wolcott Street, Everett?—A. I have been married six years and lived there since I was married.

Q. Was he living there before then?—A. No.

Q. You went there to live after you were married?—A. Yes, sir.

Q. Who owns the house?—A. John Casey.

Q. That is Lawyer Casey?—A. Lawyer Casey.

Q. You never lived at 19 Causeway Street, Boston?—A. You will have to speak louder; I am hard of hearing.

Q. You never lived at 19 Causeway Street, Boston?—A. No, sir; I never lived in Boston.

Mr. O'CONNELL. That's all, Mrs. Crowley.

Mrs. FRANCES A. ALDERS.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Frances A. Alders.
 Q. Where do you live?—A. One thirty-one Havre Street, East Boston.
 Q. Do you know George W. Alders?—A. I do.
 Q. How is he related to you?—My husband's brother; brother-in-law.
 Q. What's his business?—A. Calking.
 Q. Do you know where he is now?—A. I couldn't tell you.
 Q. Do you know how long he has been missing?—A. About a year, I think, to be certain; I think about a year.
 Q. Before that he used to live with you?—A. Sometimes.
 Q. By that, what do you mean?—A. When he was working in East Boston he stopped with me.
 Q. When he wasn't living out of town, he lived there?—A. Yes.
 Q. When he was living in town, he lived with you? Your answer is "Yes"?—A. Yes.
 Q. What is the best of your recollection as to when he was last known to be around here?—A. I really think it was about a year ago that he was at my house.
 Q. And have you or any of your family, to your knowledge, seen him since then?—A. Not one of us.
 Q. Not a married man?—A. He is a widower.
 Q. Any children?—A. No, sir.
 Mr. O'CONNELL. That's all.
 Mr. CALLAHAN. No questions.

FRANCES A. ALDERS.

Mrs. NORA M. THORNTON.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Nora M. Thornton.
 Q. Where do you live?—A. 150 Washington Street, Dorchester.
 Q. How long have you lived there?—A. Only three months.
 Q. And before then, where did you live?—A. 52 Everton.
 Q. And that is also in Dorchester?—A. Yes, sir.
 Q. How long did you live at Everton Street, Dorchester?—A. About three years.
 Q. Do you know William J. Thornton?—A. Yes; my husband.
 Q. And he lives with you?—A. Yes.
 Q. He lived with you at Everton Street, Dorchester?—A. Yes.
 Q. How many children have you?—A. Four married daughters.
 Q. Any of them live at home with you?—A. Yes.
 Q. And what is your husband's business?—A. Pressman on the Boston Herald.
 Q. You never lived at the Hotel Lucerne the 1st of last April, of course?—A. No.
 Q. Neither did your husband?—A. No.
 Q. Your husband was living with you at home in Dorchester at that time?—A. Yes.
 Q. About how old is your husband?—A. 57.
 Q. About how heavy a man is he?—A. Weights about 170.
 Q. About how tall?—A. Very short.
 Mr. O'CONNELL. That's all, Mrs. Thornton.
 Mr. CALLAHAN. Wait a minute.

Cross-examination by Mr. CALLAHAN:

- Q. Your husband is where he can be summoned at any time, is he?—A. Yes, sir. At his home, 150 Washington Street, or the Boston Herald.
 Mr. CALLAHAN. That's all.

NORA M. THORNTON.

Mrs. HANNAH J. DONOVAN.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Hannah J. Donovan.
 Q. Where do you live?—A. 21 Prospect Street, West End.
 Q. Do you know Peter Ducalo?—A. Yes, sir.
 Q. What relation?—A. No relation.
 Q. Does he reside with you?—A. He did.

- Q. Up to when?—A. Four or five weeks ago.
 Q. Do you know where he is now?—A. 19 Causeway Street.
 Q. Prior to that he lived with you?—A. Yes.
 Q. How old is he?—A. He is a man about 63—62 or 63.
 Q. And his business?—A. Carpenter.
 Q. Carpenter?—A. Yes.
 Q. How long has he been on Causeway Street?—A. He has been only two or three weeks now.
 Q. Two or three weeks. That's all.
 Mr. CALLAHAN. No questions.
 Mr. O'CONNELL. Just one question.
 Q. Where did he live the first of last April, with you on Prospect Street?—
 A. Yes, sir.
 Mr. O'CONNELL. That's all.

NELLIE M. CLEMENS.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Nellie M. Clemens.
 Q. Where do you live, Mrs. Clemens?—A. One hundred and twenty-five St. Botolph Street.
 Q. What suite?—A. Four.
 Q. You are married?—A. Yes.
 Q. And have no children?—A. No.
 Q. How long have you lived there?—A. Be two years next July.
 Q. And your husband's business is what?—A. Publisher.
 Q. What, publisher?—A. Yes, sir.
 Q. Advertising business?—A. Yes, sir.
 Q. How long have you lived at St. Botolph Street?—A. Two years next July.
 Q. About how old is your husband?—A. Thirty-three.
 Q. Do you know Harry J. Fowler?—A. I know of him.
 Q. What's his business?—A. I couldn't tell you.
 Q. How long have you known him?—A. Not a very long while.
 Q. Does he live with you?—A. No; he doesn't. He lives underneath.
 Q. Same house?—A. Yes.
 Q. How long has he lived there?—A. Well, I really couldn't tell you. I don't know. I imagine about a year. They lived there before they bought the place; they roomed there.
 Q. And bought the place now and own the place?—A. Yes.
 Q. And have owned it for about a year?—A. I think so; I couldn't tell you.
 Q. He lived there before he bought it?—A. He roomed there. He bought the furniture. He didn't buy the house. He bought the furniture, and he lives there now. He didn't buy the house.
 Q. Before he bought the furniture?—A. He roomed there for a while.
 Q. I take you would say about a year prior he lived there for some time?—A. I couldn't say how long.
 Q. Mr. Fowler is a man about 50?—A. I should think so; yes.
 Q. What's his business?—A. I think publishing, advertising business.
 Q. Has he any wife?—A. Yes, sir.
 Q. Lives with his wife there?—A. Yes.
 Q. No children?—A. No.
 Q. How tall a man is he?—A. I don't know. I should say about 5 feet 6 or 7.
 Q. About as tall as you?—A. No; he is not as tall as I am.
 Q. How tall are you?—A. Five, ten, I think.
 Q. Are you? I didn't think you were as tall as that.
 Mr. O'CONNELL. That's all, Mrs. Clemens.
 Mr. CALLAHAN. No questions.

NELLIE LOMASNEY.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Nellie Lomasney.
 Q. Where do you live?—A. Seventy-nine St. Alphonsus Street, Roxbury.
 Q. How long have you lived there?—A. Should say about 10 years.
 Q. Do you know John Lomasney?—A. I have a brother John.
 Q. He is your brother, and you live there with your father and mother?—A. I keep house for father and brothers.

Q. How many brothers have you? And who are they?—A. Two brothers; John—they are John J. and James B.

Q. What is your brother John's business?—A. Newspaper driver for the Boston American.

Q. Drives a newspaper wagon for the Boston American?—A. Yes.

Q. How old is he?—A. Twenty-four.

Q. And how tall is he?—A. I should say about as tall as I am.

Q. Tall as you? I presume you are related to Martin Lomasney?—A. I think not.

Mr. O'CONNELL. I think that's all.

Mr. CALLAHAN. John works for the Boston American, does he?

The WITNESS. Yes.

Mr. CALLAHAN. All right. He can be summoned.

KATHERINE LYONS.

NELLIE LOMASNEY.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Katherine Lyons.

Q. Where do you live, Mrs. Lyons?—A. 48 Corey Street, Charlestown.

Q. Do you know John L. Smith?—A. Yes, sir; I do.

Q. Where does he live?—A. Lives at 26 Corey Street, Charlestown.

Q. How long has he lived there?—A. Guess about seven years.

Q. Does he live with his wife?—A. Yes, sir.

Q. What's his wife's name?—A. Emma.

Q. How many children have they, if you know?—A. She has got four.

Q. About what ages?—A. I guess the oldest one is 12—11 or 12—one 9, one 6, and one 2 years old.

Q. Do you know where those children go to school?—A. Sisters' school.

Q. St. Catherine Parochial School?—A. Yes.

Q. Will you describe Mr. Smith—how tall he is?—A. I really couldn't tell you.

Q. What's his business?—A. He works—a longshoreman.

Q. I suppose he is a well set up man?—A. Yes; very tall. I really couldn't tell how tall.

Q. About how old is he?—A. I guess he is a man that must be about 40 or 45 years.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. Wait a minute.

Cross-examination by Mr. CALLAHAN:

Q. Are you, Mrs. Lyons, related in any way to this John L. Smith?—A. No, sir; I am not.

Q. Did anybody talk to you about this Mr. Smith before you came here?—A. There was a man came to my house a couple of weeks ago, and he asked about Mr. Smith—how long he had lived there. I didn't really know how long; I told him he had lived there quite a while.

Q. Did you know the man that came to you and asked you?—A. No, sir; I didn't know—a dark-complected young man.

Q. Did he represented himself as an officer?—A. No.

Q. What did he say when he asked you the question?—A. He came in the forenoon; I was doing my washing, and he knocked on the door. He asked me about this Mr. Smith—what his occupation was.

Q. Before asking about Mr. Smith—what his occupation was—did he say who he was and who he represented?—A. No, sir; he didn't.

Q. Didn't say he was from the marshal's office or the district attorney's office?—A. No, sir; didn't say a thing.

Q. And you volunteered that information?—A. No.

Mr. CALLAHAN. That's all.

Mrs. MARY E. ROGERS.

Direct examination by Mr. O'CONNELL:

Mr. O'CONNELL. Mr. Notary, Mrs. Rogers informs me that she wants to volunteer to testify in this case, and under those circumstances and in view of the ruling you have made that volunteer witnesses may be put on, I am going to put her on.

Mr. CALLAHAN. Our objection may be noted.

Q. Kindly give us your full name?—A. Mary E. Rogers.

Q. Where do you live?—A. 38 West Newton Street.

Q. How long have you lived there?—A. Seven years.

Q. And did you own a lodging house at 429 Shawmut Avenue?—A. I did.

Q. How many years did you own it?—A. Five.

Q. And you were familiar with the boarders and lodgers you had there?—A. Yes, sir.

Q. Did you have a lodger there by the name of Kohler?—A. I did not.

Q. You had one by the name of Hoar?—A. I did.

Q. What was his name?—A. Edward H.

Q. Did you ever have a John J. Kohler—K-o-h-l-e-r?—A. No; I never did.

Q. And no man by that name ever lived at that house?—A. No.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. CALLAHAN:

Q. You live at 38 West Newton Street?—A. I always lived at 38 West Newton Street. I have that house. I run the two houses; they are quite close together.

Q. You run two lodging houses?—A. Yes, sir.

Q. One at 38 West Newton Street and one at 429 Shawmut Avenue?—A. Yes, sir.

Q. You live at 38 West Newton Street?—A. Yes, sir.

Q. And who conducts the house 429 Shawmut Avenue?—A. Well, I don't have it now, I don't know, but when I did, I conducted it myself.

Q. Now, when was the last time you had control of the house, 429 Shawmut Avenue?—A. The 1st of November last.

Q. The 1st of November, 1918?—A. Yes; I sold out then.

Q. And before that time you had it four years?—A. About five years. I ran it myself.

Q. By that you don't mean you were there every day?—A. I was there every day some part of the day. I used to tell them I slept at 38, because I called that my home, I called one place as much as another.

Q. Four twenty-nine is right around the corner?—A. Right across the park—Blackstone Park.

Q. Did you on the 1st of April give a list to the police officers?—A. Yes.

Q. Did you last year give a list of 429 Shawmut Avenue?—A. I suppose I must have.

Q. Did you or didn't you give a list?—A. They demand a list; I can't really remember; I couldn't say positive, sure.

Q. Did anybody ever ask you whether you did or not?—A. I know they always left a list for me to fill out.

Q. You filled out a list for 38 West Newton Street?—A. Yes, sir.

Q. And don't you know whether you filled out one for the other?—A. Yes; I filled out one for the other.

Q. All right, and you know, of course, when a man's name may be left out on the 1st of April, the officer comes around sometime during the year and asks you whether or not that man was there the 1st of April?—A. Yes.

Q. You know that?—A. Yes.

Q. And during the year did anybody come to your house and ask if anybody on the list the 1st of April you had forgotten?—A. I don't remember any.

Q. Do you keep a book with your lodger's names?—A. I do now, but I didn't then. The 1st of October we were compelled to have a register, and since then we have all the names.

Q. You are compelled to have a register?—A. Now.

Q. And until that time you had no register?—A. Not particularly.

Q. And kept no particular accounts —A. No, sir.

Q. Your lodgers paid you?—A. At the end of every week.

Q. At the end of every week and you kept no books. Now, it has been your experience, Mrs. Rogers, this is a lodging house district entirely?—A. Yes, sir.

Q. The whole section of the South End is a lodging house district?—A. Yes.

Q. And it has been your experience the lodgers change from one house to another, do they, during the course of a year?—A. Yes.

Q. And they change frequently, don't they?—A. Well, yes; some places they do.

Q. It is a custom there for a person to be living on West Newton Street today?—A. Yes, sir.

Q. And probably in two months living on Brookline Street?—A. Yes, sir.

Q. Or Shawmut Avenue?—A. Yes, sir.

Q. Or Washington Street?—A. Yes, sir.

Q. It is a common thing, isn't it? Would you say "Yes?"—A. Yes.

Q. Mrs. Rogers, if you didn't sign the list or give the list on the 1st of April of your house on Shawmut Avenue, was there anybody else authorized to do so?—A. No.

Q. Would anybody else have given it?—A. No.

Q. If you didn't?—A. No.

Q. And so that if Mr. Kohler's name is on the list you gave the police, why, you gave Mr. Kohler's name, is that so?—A. I would have to—

Q. I will change that question. You say you don't know whether you gave the list or not, but nobody else is authorized to give that list?—A. No.

Q. Now, if Mr. Kohler's name is on that list you must have given it?—A. Yes; unless they put it on themselves. I say I didn't have anybody by that name. I remember my lodgers very well.

Q. If his name is on that list, you either gave the police officers the name unless the police officers changed it, is that so?—A. Yes.

Mr. CALLAHAN. That's all.

Mrs. NORA BROWN.

MARY E. ROGERS.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Mrs. Nora Brown.

Q. You are the wife of James F. Brown?—A. Yes, sir.

Q. Never lived at the Hotel Lucerne?—A. No, sir.

Q. Where do you live?—A. Three Prospect Street, Charlestown.

Q. How long have you lived there?—A. Since last April.

Q. And where did you live before that?—A. One thirty-seven Chelsea Street.

Q. That's also in Charlestown?—A. Yes, sir.

Q. You live there with your children?—A. Yes, sir.

Q. Four children—4, 11, 17, and 18?—A. Yes, sir.

Q. All go to school?—A. All but one goes to the parochial school. One works.

Q. Did you live at 137 Chelsea Street prior to last April?—A. Yes, sir.

Q. How old a man is your husband?—A. Fifty-one.

Q. And how large a man is he?—A. Five feet seven inches.

Q. As tall as I am?—A. Yes.

Q. Tall as I am—5 feet 10, would you say?—A. Five feet five, I should say.

Q. Tall as you?—A. Yes.

Q. Taller?—A. Five feet five. I seen his papers, his Spanish War papers, and he is 5 feet 5 inches, I know.

Q. What's his business?—A. Works in the navy yard, the last 19 years.

Q. He never lived at the Hotel Lucerne in Boston?—A. No, sir.

Mr. O'CONNELL. That's all.

Mrs. ELLEN WILSON.

NORA BROWN.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Ellen Wilson.

Q. Where do you live?—A. Twenty-four Brook Avenue, Roxbury.

Q. That is in Roxbury?—A. Yes.

Q. Do you know Edward D. O'Dwyer?—A. Yes, I do.

Q. How long have you known him?—A. Since he was a little boy.

Q. Any relative?—A. Yes; a nephew of mine.

Q. Does he live with you?—A. Lives with me until March, and leaves my house the month of March, and says, he tells me he is going away, and if anybody wants him, he says to tell them he is not there, and he stays until June when he comes back again.

Q. Do you know where he goes to?—A. I don't know where he goes after he leaves my house.

Q. How long has that been going on?—A. Fully three years.

Q. Is not married?—A. No, sir.

Q. How old is he?—A. Thirty-two.

Q. And he works for the park department of the city of Boston?—A. City of Boston.

Q. You haven't seen him since you got the summons?—A. Yes, I have seen him since I got the summons.

Q. You talked with him, of course?—A. No; I didn't consider it was any of his business. I thought it was for something else.

Q. You knew about this contest?—A. Yes; I did.

- Q. You say he comes back to you about when?—A. June, some time.
 Q. What makes you say June?—A. Because he does come back in June.
 Q. Do you keep any record?—A. No; I don't keep any record.
 Q. From June until some time in March he is away from your house?—A. About the middle of March he leaves my house.
 Q. And doesn't tell you where he goes?—A. No, he don't.
 Q. Where do you send his mail during that time?—A. I don't send his mail anywhere, because no mail comes to my house for him.
 Q. During the year there isn't any mail?—A. No mail comes for him.
 Q. Where does his mail go?—A. Over to the building where he works.
 Q. You live with your children and he is a boarder during the last year?—A. No; just a roomer.
 Q. And a roomer during the last year?—A. Yes.
 Q. Did you ever live at 382 Hanover Street, Boston?—A. No, sir; I never did.
 Q. Do you know anybody that lives there?—A. No, I don't.
 Mr. O'CONNELL. That's all.
 Mr. BERMAN. Just one question. During the time he is away he is still working during that time at the park department?
 The WITNESS. As far as I understand.
 Q. You don't understand he leaves the city? —A. No; he don't leave the city.
 Q. Do you see him at all during that time?—A. No.
 Q. Sundays or holidays or any other time?—A. No.
 Q. In case of accident you could communicate with him?—A. I don't know. I suppose he'd be in the building. That's the only way I would know.
 Mr. O'CONNELL. That's all.

ELLEN WILSON.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 29 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

BOSTON, MASS., *May 5, 1919.*

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, *February 25, 1919—10.15 a. m.*

Mr. BERMAN. The hearing will now be resumed.

(Names of witnesses called by Mr. Berman and those present answered to their names.)

Mrs. ADELINE J. CARLEZON.

Direct examination by Mr. O'CONNELL:

Q. What is your full name, Mrs. Carlezon?—A. Adeline J. Carlezon.

Mr. CALLAHAN. Spell it, please.

The WITNESS. C-a-r-l-e-z-o-n.

Q. Where do you live?—A. 148 Warren Avenue, Boston.

Q. Do you know Thomas McCue?—A. Yes, sir.

Q. Did he live at your home?—A. Yes, sir.

Q. How long did he live there?—A. He came to my house in 1911 the first time.

Q. Since lived there?—A. Lived there; yes.

Q. And there to-day, now?—A. No.

Q. Where does he live?—A. He's working, but not at home. Going back and forth.

Q. That's his residence?—A. Yes; and he's going back and forth.

Q. What do you mean by that?—A. He would go out sometimes and come back again.

Q. He has been with you practically all the eight years except when he has been called out of town?—A. No; he married; when he came to my house he lived about a year, then he goes away, and he's married, and his wife came from England, and he come back, and she lived there a year when she died, and then his brother ask for the room, and when he moved his brother Tom came with his brother, and then he goes and comes; sometimes he goes and comes back again.

Q. What do you mean by that, "goes and comes"?—A. He have a little son; I don't know whether he goes to stay with him; in the spring he goes away five or six weeks.

Q. What time in the spring?—A. Last of April, 1st of March, or June or May.

Q. Do you know where he was going to?—A. No; I couldn't tell. He say he going away, "if anybody asks tell them I'm not here." He's a man you couldn't have any conversation with.

Q. How often when he would go away would he tell you to tell anybody that asked for him that he was not there?—A. A couple of times a year.

Q. I see. Did he leave his trunks with you?—A. He takes his grips, packs his things—

Q. And leaves his trunks?—A. Yes.

Q. In fact, all he would take away was his grip?—A. He takes his clothes, what he needs.

Q. And leaves the other stuff there in the house?—A. Well, I don't know who it belongs to; it might belong to his brother; I couldn't tell.

Q. I didn't ask you that. I asked if he leaves his things there?—A. I suppose he does. I didn't know who they belonged to.

Q. When did you see Mr. McCue last?—A. Let's see, to-day is Tuesday; I saw him Saturday.

Q. Did you talk with him?—A. No; only to say, "Good morning."

Q. Talk about coming down here to testify?—A. No.

Q. Did you ever know of his living at 44 Cooper Street, Boston?—A. No.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mrs. Carlezon, you say Mr. McCue leaves your house for five or six weeks in March and April?—A. Yes.

Q. And he has done that for several years, or the years that he has been in the house?—A. Last couple of years—last two years.

Q. He has only been with you two years?—A. No; been in all at the beginning and back and forth eight years; then there summers.

Q. You conduct a lodging house, do you?—A. Yes, sir.

Q. He is not a permanent boarder; frequent times during the year he goes away and comes back, is that so?—A. Yes, sir.

Redirect examination by Mr. O'CONNELL:

Q. What does he do?—A. Carpenter.

Q. Who does he work for?—A. Elevated.

Q. Boston Elevated?—A. Boston Elevated; yes.

Q. Did you speak with somebody recently in reference to him who went to call at your house inquiring about him?—A. The gentleman here [indicating] came and asked for him.

Q. And at that time you told him this man had lived at your house for eight years?—A. Yes.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. Just a minute.

Recross examination by Mr. CALLAHAN:

Q. Just a minute, this man, who asked you these questions, was it at your house?—A. It was at my house.

Q. Who was it?—A. The gentleman sitting right here.

Q. One of these men here [indicating]?—A. This young man here [indicating].

Q. You don't mean this young man here [indicating]?—A. I think so. It looks like him. It looks like him.

Mr. CALLAHAN. Of course she has only seen the back of his head.

Mr. O'CONNELL. She has seen the front of his face.

Q. Now, Mrs. Carlezon, did this man come to you representing he was a Government officer?—A. He didn't say nothing; only asked for Tom McCue.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. That's all.

Mrs. MARY FRANCES RYAN:

Direct examination by Mr. O'CONNELL:

Q. Mrs. Ryan, what is your full name?—A. Mary Frances Ryan.

Q. Where do you live?—A. Eleven Paisley Park, Dorchester.

Q. That is, in Dorchester; that is the farther end of the city in ward 20. Do you know John J. Larkin?

Mr. BERMAN. What is the name, please?

Mr. O'CONNELL. Mary Frances Ryan.

The WITNESS. Yes, sir.

Q. Live in your home?—A. Resides in my house.

Q. Has he any children?—A. Two.

Q. How old are they?—A. I think about 3 and a year.

Q. Is he a widower?—A. No.

Q. His wife lives there, too, does she?—A. Yes.

Q. He and his wife and his children live in your house?—A. Yes.

Q. What's his business?—A. Why, he works with Filene Co.

Q. Furrier?—A. Yes, sir.

Q. How long has he lived at 11 Paisley Park?—A. Why, about seven years, I think.

Q. His children go to school right there?—A. No, sir; they are not old enough.

Q. I see; 3 years old you said; oh, I see.

Mr. O'CONNELL. I think that's all.

Cross-examination by Mr. CALLAHAN.

Q. Did you say what his occupation was?—A. He works for Filene Co.

Q. Do you know what he does?—A. No; but I think a furrier.

Mr. O'CONNELL. Furrier, in the fur department.

Mr. CALLAHAN. That's all.

Mrs. FRANCIS DOWD.

Direct examination by Mr. O'CONNELL.

Q. Mrs. Dowd, what is your full name?—A. Mary E. Dowd.

Q. Where do you live?—A. Dorchester.

Q. What street and number?—A. No. 6 Leroy Street.

Q. That's out— A. Meeting House Hill.

Q. Ward 18. How long have you lived there?—A. About five years.

Q. And with your husband and children?—A. Yes, sir.

Q. How many children have you?—A. Five.

Q. What ages?—A. The oldest is 22 and the youngest is 3.

Q. And some children go to the Marshall School?—A. Yes, sir.

Q. How many of them?—A. Yes; two.

Q. The Marshall School is right near where you live?—A. Yes.

Q. Westville Street?—A. Yes.

Q. Your husband is Francis J. Dowd?—A. Yes.

Q. What's his business?—A. Works for the city of Boston.

Q. In what department?—A. Street cleaning.

Q. In what capacity?—A. Inspector.

Q. How old is your husband?—A. Forty-two.

Q. About how large a man is he? Can you describe him?—A. Sitting right back of you.

Mr. O'CONNELL. All right. That's all.

MARY E. DOWD.

JOHN J. LEONARD.

Direct examination by Mr. O'CONNELL.

Q. What is your full name?—A. John J. Leonard.

Q. You live where, Mr. Leonard?—A. No. 42 Blue Hill Avenue.
 Q. Dorchester?—A. Yes.
 Q. Is that Dorchester?—A. Yes, sir.
 Q. What ward is that?—A. Ward 17.
 Q. Ward 17; that's in the twelfth congressional district?—A. Yes, sir.
 Q. How long have you lived there, Mr. Leonard?—A. About 28 years.
 Q. You own your house?—A. No, sir.
 Q. You own the house 95 Geneva Avenue?—A. No.
 Q. Have you lived at 12 Wales Street?—A. No, sir.
 Q. Own the house 12 Wales Street?—A. No, sir.
 Q. Do you know who does?—A. No, sir.
 Q. Do you know Charles W. Murphy?—A. No, sir.
 Q. Do you know a man named Concrey?—A. No, sir.
 Q. You're not the landlord at 42 Blue Hill Avenue?—A. No, sir; I'm not.
 Q. Know who is?—A. No.
 Q. You live there?—A. I do.
 Q. No such man there by that name?—A. His name is Mr. Abbott.
 Q. What's Mr. Abbott's initials?—A. I couldn't tell you.
 Q. Where does he live?—A. Keeps his office, I think, 19 Valentine Street, Roxbury. Think he lives in Walnut Avenue.
 Mr. BERMAN. Do I understand you don't know who owns the house you live in?

The WITNESS. I said Mr. Abbott.

Q. You never lived 95 Geneva Avenue?—A. No, sir; did not.

Q. Or 12 Wales Street?—A. No, sir.

Q. I guess we got your name twisted Mr. — A. I guess it is.

Mr. O'CONNELL. Strike all that testimony out.

Mr. CALLAHAN. I don't believe counsel has the right to strike that examination out. I won't have it stricken from my record.

Mr. O'CONNELL. You can keep your record. Will you take the stand Mr. Leonard, please?

Q. Mr. Callahan's stenographer tells us you spelled your name Lennon, is that right?—A. No, sir; it's Leonard.

Mr. O'CONNELL. Now, Mr. Callahan, what are you going to say now?

EDWARD I. KELLY:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Edward I. Kelly.

Q. Where do you live, Mr. Kelly?—A. No. 30 Faxon Street, East Boston, Orient Heights district.

Q. Business?—A. Elevator engineer.

Q. You are an ex-Representative?—A. Ex-Representative.

Q. Served from one of the East Boston wards?—A. Ward 1, East Boston, for two terms.

Q. Do you know John F. Fitzgerald? You advocated his election to Congress?—A. One of his hardest workers.

Q. And you did everything you could for his election?—A. Everything.

Q. Now, Mr. Kelly, do you know a man by the name of Edison F. Sawyer?—A. Well, I know him.

Q. How well do you know him?—A. Well, his father is a tenant in one of my houses.

Q. How old is Mr. Edison F. Sawyer?—A. Well, under 30.

Q. And his father has been a tenant of your house for how long?—A. Since August 1, 1916.

Q. And his son has lived there with his father, hasn't he?—A. Not that I know of.

Q. Do you live in the same house?—A. Live in the same house.

Q. Seen the son around there any time?—A. Once in a great while he is there.

Q. How often?—A. When he comes to visit the children there.

Q. Not married?—A. No.

Q. Know where he lives?—A. Know nothing about him; don't mingle in his affairs at all.

Q. Know what his business is?—A. Know nothing at all about him.

Mr. O'CONNELL. All right.

Mrs. FRANK NEYLON:

Direct examination by Mr. O'CONNELL:

A. What is your full name?—A. Theresa J. Neylon.

Q. Where do you live?—A. No. 48 Monmouth Street, East Boston.

Q. What is your husband's name?—A. Francis J. Neylon.

Q. F-r-a-n-c-i-s?—A. Yes, sir.

Q. How many children have you?—A. Two.

Q. How old?—A. My oldest 10, youngest 5.

Q. They go to school?—A. The oldest one goes to the Chapman School.

Q. Where's that?—A. Eutow Street.

Q. That is East Boston?—A. Yes; and the little one goes to kindergarten on Lexington Street.

Q. Your husband's business is what?—A. Conductor for the Boston Elevated.

Q. How long have you lived at 48 Monmouth Street?—A. Six years the 12th of this April.

Q. You never lived 43 Allen Street?—A. No, sir.

Q. About how old is your husband?—A. Thirty-two.

Mr. O'CONNELL. I think that's all.

Cross-examination by Mr. Callahan:

Q. Now, Mrs. Neylon, what's your husband's first name—Frank or—A. Francis.

Q. It isn't Frank?—A. It's Francis.

Mr. O'CONNELL. I suppose sometimes you call him Frank?

The WITNESS. I always call him Frank.

Q. How does he sign his name on any papers or documents—Francis J. Neylon?—A. Yes, sir.

Mr. O'CONNELL. I suppose he always signs his letters "Frank"?

The WITNESS. Yes, sir.

Q. Now, let's see, Mrs. Neylon, just a minute. You don't mean to say you've seen your husband sign "Frank J. Neylon"?—A. No, sir.

Q. No; he might if he was writing a letter sign "Frank"—intimate letter?—A. Intimate letter.

Q. But official documents he signed "Francis J. Neylon"?—A. Puts his full name.

What does the "J" stand for, do you know?—A. James.

Q. James; thank you.

Mr. CALLAHAN. That's all.

FRANCIS J. NEYLON.

Mrs. BERTHA T. BRADFORD:

Direct examination by Mr. O'CONNELL:

Q. What's your full name?—A. Bertha T. Bradford.

Mr. MANCOVITZ. What's the name?

The WITNESS. Bertha T. Bradford.

Q. And where do you live?—A. No. 26 Jerome Street, Uphams Corner.

Q. That's in Dorchester?—A. Yes, sir.

Q. And that's in ward 17, I believe?—A. Yes; ward 17.

Q. And do you know Valentine T. F. McCormick?—A. I know there is a Valentine McCormick, but I don't know the other initials.

Q. Where does he live?—A. No. 24 Jerome Street.

Q. That's in Dorchester, the same house you live in?—A. No; tenant, next door.

Q. How long has he lived there?—A. Perhaps five years, I think.

Q. What does the family consist of?—A. The father, Mr. J. H., Mrs. McCormick, two daughters, and Mr. Valentine McCormick.

Q. What's Mr. Valentine McCormick's business?—A. Letter carrier.

Q. Your husband is landlord of the house they live in—McCormicks live in?—A. Yes, sir.

Cross-examination by Mr. CALLAHAN:

Q. You don't know this Mr. McCormick's initials?—A. The family call him "Val."

Q. You don't know that that's his name?—A. I always heard him called "Val."

Mr. CALLAHAN. Val McCormick?

The WITNESS. That's the name I heard him called by in the family.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. That's all.

BERTHA T. BRADFORD.

Mrs. ROSE M. GAVIN:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Rose M. Gavin.

Q. Where do you live?—A. No. 139 Boston Avenue, West Somerville.

Q. How long have you lived there?—A. About 10 years.

Q. And do you know John F. Leonard?—A. No, sir.

Q. Know any man by the name of Leonard that lives at that house?—A. No.

Q. Anybody call on you recently and talk with you about a Mr. Leonard?—

A. Yes; I think there was a man called at the door.

Q. Did you tell him you knew Mr. Leonard?—A. Well, I don't know him. I knew of him, I said.

Q. What did you tell about him?—A. Couldn't tell anything about him.

Q. Did you tell him he lived at that house?—A. No.

Q. What you know of him?—A. I don't remember just the conversation.

Q. What did you tell the man you knew about Mr. Leonard?—A. I don't remember.

Q. Where had you ever heard of Mr. Leonard?—A. There's a gentleman by that name lives across the street from me.

Q. What is his name?—A. I don't know.

Q. What's his business, do you know?—A. I couldn't tell you that.

Q. That was the man you referred to?—A. That was the man I referred to. I don't know him, only see him on the street.

Q. How long has he lived there?—A. I couldn't tell you.

Q. How long have you been seeing him on the street?—A. Well, I don't know; perhaps three or four years.

Q. You can tell whether you have seen him around there three or four years?—A. Probably.

Q. Know his business?—A. No, sir.

Q. Do you know who is in Mr. Leonard's family?—A. Only he and his wife.

Q. No children?—A. No.

Q. This Mr. Leonard you refer to lives in the house opposite you, with his wife, and has for about three years?—A. Three or four years.

Q. Do you know his wife very well?—A. No.

Q. Know her to speak to?—A. No; I don't speak to her.

Q. You never spoke to her?—A. I don't think I ever spoke to her.

Mr. O'CONNELL. That's all.

ROSE M. GAVIN.

Mrs. MARY HOWARD BAKER:

Direct examination by Mr. O'CONNELL:

Q. What's your full name?—A. Mary Howard Baker.

Q. Mrs. Baker, where do you live?—A. Thirty-five Mount Pleasant Avenue, Roxbury.

Q. You live there with your husband?—A. Sometimes.

Q. What's your husband's business?—A. Wine clerk.

Q. Where does he work?—A. Now, I don't ask him where he works. I don't know where he works. He supports me and that's all I ask for. I don't know where he works. It's immaterial to me where he works.

Q. Did you ever hear where he worked?—A. No; I haven't investigated that; I have something else to do.

Q. How long have you been married to Mr. Baker?—A. About three years, or four year.

Q. Does he work in town?—A. I don't know anything about where he works. I want to go home——

Mr. CALLAHAN. I hope we will get questions and answers, not comments. (Colloquy.)

Q. Do you know a gentleman by the name of Frank T. Cunningham?—A. I do know; yes.

Q. Where does he live?—A. Lived a while at my house.

Q. How long did he live at your house?—A. He lived off and on, lived a year.

Q. What year?—A. Well, he came year before last, or the first of last year; about a year ago; a little over a year ago.

Q. That was the beginning of 1918? This would be February, 1918?—A. To the best of my knowledge; yes.

Q. And what's his business?—A. Works at the post office.

Q. And do you know what post office he works in?—A. No; I don't.

Q. Was it at the North Station?—A. I don't know.

Q. Never heard him tell?—A. No, sir.

Q. No relative of yours, was he?—A. No, sir.

Q. Just lodged at your home?—A. At times; yes, sir.

Q. When did he leave your home?—A. Last June.

Q. And that was to go in the Army?—A. Yes, sir.

Q. And he is still in the Army?—A. I don't know if he is.

Q. You never lived at 72 Causeway Street, Boston?—A. I never; no; I never did.

Q. Have you seen Mr. Cunningham since he went in the Army; been home at all?—A. No; he's come home once.

Q. Do you know when that was?—A. Around Christmas time.

Q. Around Christmas?—A. Around the first of the year. Around the New Year. Around Christmas or New Year's.

Mr. O'CONNELL. That's all.

MARY H. BAKER.

(Recess of five minutes.)

RAYMOND FRANCIS KILEY:

Direct examination by Mr. O'CONNELL:

Q. What's your full name?—A. Raymond Francis Kiley.

Q. Where do you live, Mr. Kiley?—A. No. 12 Tremont Street, Charlestown.

Q. Do you collect the rents at 13 Monument Street, Charlestown?—A. Yes, sir.

Q. Who owns the house?—A. My mother.

Q. Do you know the tenants in that house?—A. Yes, sir.

Q. Who are they?—A. Mrs. Thompson, the first; Fitzgerald, the second floor.

Q. What's Fitzgerald's name?—A. I don't know the name; just Mrs. Fitzgerald to me.

Q. How much of a family in that tenement?—A. Well, every time I go there Mrs. Fitzgerald pays the rent. I see a daughter and son there.

Q. How old are they?—A. Should say the daughter 25 or 30, between there, and the son apparently a little older.

Q. Do you know what the husband's business is?—A. I believe the husband's business—

Q. Son, rather?

Mr. CALLAHAN. If you know?

The WITNESS. I don't know anything about them.

Q. Will you describe him, please?—A. Rather tall, athletic man, seems to me, light; light complected, and that's as much as I can say about it.

Q. Know whether his name is John E. Fitzgerald?—A. I don't know, sir.

Q. About how much does he weigh?—A. I wouldn't be able to say.

Q. This Fitzgerald family been living there five or six years?—A. I should say all of that, sir.

Q. Do you know whether the family ever lived in the West End?—A. I don't know.

Mr. O'CONNELL. I think that's all.

Mr. BERMAN. Know what his business is?

The WITNESS. No, sir.

Mr. BERMAN. Know how old he is?

The WITNESS. No, sir.

Mr. O'CONNELL. I will say right here, in order for the record, we will show this man was registered at the Revere House, although living at Charlestown.

RAYMOND F. KILEY.

MARGARET ANNA McKINNON:

Direct examination by Mr. O'CONNELL.

Q. What is your full name, Miss McKinnon?—A. Margaret Anna.

Q. McKinnon?—A. McKinnon.

Q. Where do you live?—A. No. 130 Myrtle Street, Boston.

Q. How long have you lived there?—A. Since last September.

Q. And do you know Philip J. Ahearn?—A. I know he lives there. I don't know him personally.

Q. Who are the families in the house with you?—A. Flannery, Ahearn, McArdle, Steele, Parkhurst, Benson. I think that's eight. Eight families.

Q. How old is Mr. Ahearn?—A. Haven't any idea.

Q. What does the Ahearn family consist of?—A. I don't know.

Q. Know Mrs. Ahearn at all?—A. Yes, I know the mother.

Q. Know how many children there are?—A. No.

Q. How often have you seen Philip J. Ahearn around?—A. Why, I've seen him go in. He works days and I work night, and I often pass him as I go out of the house. I know he's the Ahearn boy. I know his mother calls him "Philip," that's all I know.

Q. That is 130—A. Myrtle Street.

Q. Do you know how long the Ahearns have lived there?—A. Is that all right, Mr. Callahan? Years, the mother said when I came there.

Mr. BERMAN. Is that all right, Mr. Callahan?

The WITNESS. Yes; to answer without "Yes" or "No."

Mr. CALLAHAN. No, if you know. You are asked if you know of your own knowledge, you can testify, you can testify to.

Mr. BERMAN. Answer Mr. O'Connell's questions.—A. Mrs. Ahearn said she hoped I would like the place, she had lived there a great many years. That's all I know.

Q. She the landlord?—A. No; the landlord lives in Brookline.

Mr. BERMAN. How long have you lived there?

The WITNESS. Since September.

Mr. O'CONNELL. At this point we will show, in order the record may be kept clear, that Philip J. Ahearn registered and voted from 76 Green Street, and this Myrtle Street is outside the district.

Cross-examination by Mr. CALLAHAN:

Q. In September, that was the first time you were at 130 Myrtle Street?—A. Yes, sir.

Q. And that was the first time you met Mrs. Ahearn?—A. Yes.

Q. And that was the first time you knew she had a son Philip?—A. Yes, sir.

Q. That was September, 1918?—A. Yes.

Mr. CALLAHAN. That's all.

MARGARET ANNA MCKINNON.

MRS. ELIZABETH ROGERS:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Mrs. Elizabeth Rogers, R-o-g-e-r-s.

Q. Where do you live?—A. No. 6 Adams Street, Charlestown.

Mr. MANCOVITZ. Speak a little louder.

Q. No. 6 Adams Street, Charlestown?—A. Yes.

Q. You have lived there how long?—A. Four years.

Q. Do you know Michael F. Donahue? A. Yes, sir.

Q. When did he die?—A. Twelfth of October.

Q. Last?—A. Yes, sir.

Q. What was his business?—A. Carpenter.

Q. About how old was he?—A. He was about 47.

Q. Do you know where he worked?—A. Worked at the White Star Co.—Steamship Co.

Q. White Star?—A. White Star Steamship Co.

Q. Married or single?—A. Single.

Q. And how long had he lived at that house?—A. About three years.

Q. At 6 Adams Street, Charlestown?—A. No. 6 Adams.

Q. Do you know how long he was sick before he died?—A. Sick about a month.

Q. In bed?—A. No; off and on.

Q. I see.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. CALLAHAN:

Q. Did Mr. Donahue live in your house?—A. Yes, sir.

Q. His name Michael F.?—A. Yes, sir.

Q. And was he a lodger in your house?—A. He was a boarder.

Q. A boarder. And by "boarder" you mean he simply came and had his meals there?—A. Slept and ate there.

Q. Slept there also?—A. Yes, sir.

Q. And he lived there some years, you say?—A. Three years.

- Q. Did he live there steadily?—A. Yes, sir.
 Q. Every night?—A. Yes, sir.
 Q. And every day?—A. Yes, sir.
 Q. You say he wasn't sick very long?—A. About a month.
 Q. About a month?—A. Yes.
 Q. And before his death, for how long a time was he in bed?—A. In bed about three days before he died.
 Q. Beg pardon?—A. About three days before he died.
 Q. And up until that time he was up and around the house?—A. Yes.
 Q. What was Mr. Donahue's age?—A. About 47.
 Q. By the way, Mrs. Rogers, did you on the 1st of April give the names of your lodgers to the police?—A. Yes, sir.
 Q. And did you give the name of Mr. Donahue?—A. Yes, sir.
 Mr. O'CONNELL. Just one question. You never knew Mr. Donahue lived at 43 Allen Street within the last two or three years?
 The WITNESS. No, sir.
 Mr. O'CONNELL. That's all.

Mrs. ELIZABETH ROGERS.

(Recess until 12 m.)

HYMAN LEBOSKY:

Direct examination by Mr. O'CONNELL:

- Q. What's your full name?—A. Hyman Lebosky.
 Q. And where do you live?—A. No. 80 Intervale Street, Roxbury.
 Q. You were in ward 5 on election day?—A. Yes, sir.
 Q. What precinct?—A. Four.
 Q. Where is that?—A. Norman Street.
 Q. And did you have a—you were there representing Mr. Tague?—A. Yes, sir.
 Q. And what were you—you had a list of those illegally registered in the ward to be challenged?—A. No, sir; Mr. Gibbons had that.
 Q. Tell us what you noticed down there in reference to Mr. Gibbons.—A. At quarter past 7 in the morning Mr. Gibbons went in the precinct, and first we noticed started trouble. The first voter came in Mr. Gibbons challenged, and the warden got him a little aside and ordered him out, and a few minutes later he was put out.
 Q. Describe who put him out and how it was done.—A. The warden ordered Mr. Gibbons out, and Sergt. Lewis had put him out.
 Q. What had Mr. Gibbons done?—A. Challenged a voter.
 Q. And what did the warden say or do?—A. "I order this man out."
 Q. Had Mr. Gibbons made any disturbance or anything?—A. No, sir.
 Q. Was there a crowd there?—A. No, sir.
 Q. What I mean is, were there many in the wardroom?—A. Just half a dozen.
 Q. Yes. Now, then, in other words, Mr. Gibbons was ordered out of that wardroom twice, and finally the police officer took him out at the request of the warden?—A. Yes, sir.
 Q. Do you know who the warden was?—A. I forget his name; I know who he is.
 Q. You were known as a Tague man?—A. Yes, sir.
 Q. And were you offered any money by anybody to go out of the wardroom?—A. Yes; I was.
 Q. By whom?—A. I don't know the fellow's name. I know the gentleman all right. He came in to vote, and I went over to him and passed him over a sticker and asked him to vote for Tague, and he says he would give me \$5 if I would go home and go to bed. I asked him what he meant by that, and Sergt. Lewis came over and separated us, because he knew there would be trouble.
 Mr. O'CONNELL. That's all.

Cross examination:

- Q. (By Mr. CALLAHAN.) What time did you go to the polls?—A. Half past 6—quarter past 6. I say quarter past 6.
 Q. Quarter past 6?—A. Yes, sir.
 Q. How long did you stay there?—A. Stayed there until half past 10.
 Q. Half past 10?—A. Yes, sir.
 Q. And you left for the day then?—A. Yes, sir.

Q. Now, Mr. Gibbons was there all that time, wasn't he?—A. No, sir. He was put out two or three times there.

Q. Put out for two or three times, but only stayed out for a minute or so?—A. One time he was out for about half an hour.

Q. Then, you were there while Gibbons was outside; is that so?—A. Yes, sir.

Q. You were working for Mr. Tague, weren't you?—A. Yes, sir.

Q. And handing out stickers?—A. Yes, sir.

Q. And marking off the names of those who came in?—A. Yes, sir.

Q. And conducting yourself properly?—A. For a while.

Q. For a while? Any time you were conducting yourself improperly?—A. Trouble started while I was checking off.

Q. No; now I am talking about your conduct?—A. My conduct was all right, sir.

Q. And because your conduct was all right nobody ordered you removed from the room?—A. Yes, sir; the warden ordered me removed.

Q. And it was because Gibbons's conduct wasn't proper he was removed?—A. No, sir.

Mr. BERMAN. I don't think you got the witness's testimony correctly. He says the warden ordered him removed.

(Colloquy.)

Mr. CALLAHAN. I'd like to be permitted to ask my own questions.

Q. Now, sir, you didn't do anything out of the way?—A. No, sir.

Q. And you weren't at any time removed or ordered out, were you?—A. Yes, sir.

Q. At what time were you ordered out?—A. I was ordered out about quarter past 8.

Q. Quarter past 8. By whom?—A. By the warden.

Q. What did he say?—A. He told Sergt. Lewis: "He ought to be put out; he's handing out stickers." That is, he says I followed up voters.

Q. And what did Sergt. Lewis do?—A. Refused to put me out.

Q. And you stayed in all the time?—A. Yes, sir.

Q. Any other time he tried to put you out?—A. Yes, sir.

Q. Did more than once?—A. Yes, sir.

Q. Did he appeal to Sergt. Lewis again?—A. Yes, sir.

Q. Did he tell you why he ordered Gibbons from the room?—A. Because he challenged votes.

Q. Challenged votes?—A. Yes, sir.

Q. And he appealed to Sergt. Lewis to put him out?—A. The warden did.

Q. Was that all Gibbons did there, challenge voters?—A. Yes, sir.

Q. And did Sergt. Lewis then put him out?—A. Yes, sir; because the warden ordered him out.

Q. I want you to describe just how Sergt. Lewis put him out.—A. He says, "I'm sorry you'll have to go out."

Q. Did Mr. Gibbons, when Sergt. Lewis ordered him to go out, go out?—A. No, sir.

Q. What would you say if Mr. Gibbons testified that Sergt. Lewis didn't order him out at all, and the warden appealed to a worker there, and they both went out?—A. I don't know exactly what you mean.

Q. If Mr. Gibbons testified here the warden had spoken to Sergt. Lewis, and Sergt. Lewis refused to put him out, and he, thereupon, appealed to a worker, and the worker and he went out together, what would you say as to that?—A. Oh, I understand that.

Q. You understand now?—A. Yes, sir. The trouble started this way: Mr. Gibbons was talking with me and one of Martin Lomasney's workers, under the influence of drink, had a few whiskies in him, and Mr. Gibbons was talking to me, and this fellow started the row, I said, "You ain't going to do any talking about me," and the warden ordered Mr. Gibbons and this Martin man outside.

Q. Supposing Mr. Gibbons said Sergt. Lewis at no time put him out or ordered him out, what would you say to that?—A. I don't care to say anything about that.

Q. Would you say that wasn't so; would you?—A. I will tell you. I wasn't with Mr. Gibbons every minute he was put out; we separated right in the ward room there.

(Colloquy.)

Q. Now, then, you say Sergt. Lewis actually put Gibbons out?—A. Told him to go out.

Q. That's what you mean by "putting out"?—A. There's two different meanings to "putting out."

Q. Give us your meanings.—A. Putting him out is taking him by the arm.

Q. That's what he did?—A. No, sir.

Q. You said, "put out."—A. I said "ordered out."

Q. First, you said "put out," didn't you?—A. No, sir.

Q. Where do you live?—A. No. 80 Intervale Street.

Q. What's your business?—A. Necktie cutter.

Q. Where do you work?—A. Kingston Street.

Q. How long have you been there?—A. Six years.

Q. What were you doing down there that day?—A. Election day?

Q. Yes.—A. Passing stickers for Mr. Tague.

Q. Who hired you to do that?—A. Nobody.

Q. Volunteer?—A. Yes, sir.

Q. When did you volunteer?—A. Before the primaries.

Q. Where did you volunteer?—A. Where did I volunteer?

Q. Yes.—A. I don't just get you, "where did I volunteer?"

Q. You know what I mean. Where did you make those preparations?—A. We made those preparations three months before.

Q. You say "we" did?—A. Mr. Gibbons and I did.

Q. You were there and Gibbons?—A. Yes, sir.

Q. To whom did you go when you offered to make those preparations, to Mr. Tague, himself?—A. No, sir.

Q. To whom?—A. Mr. Gibbons.

Q. And you agreed with Gibbons to go down that day and work?—A. Yes, sir.

Q. This was primary or election?—A. Primary.

Q. Did you go election?—A. Yes, sir.

Q. Went there also?—A. Yes, sir.

Q. Now, sir, did you give up your day's work to go down there?—A. Yes, sir.

Q. You only stayed there until half past 10?—A. Yes, sir.

Q. Go back to work then?—A. No, sir.

Q. Aside from Mr. Gibbons being ordered out, not put out, but ordered out, was there any other excitement there that day?—A. Well, there was; yes, sir.

Q. What was it?—A. When so many votes were being challenged, the first lieutenant, Pat McNulty, as I know him—

Q. What did you say, first lieutenant?—A. He is lieutenant warden in charge of ward 4.

Mr. O'CONNELL. Precinct.

Q. Charge of precinct 4?—A. Precinct 4. And he see that the voters—

Q. Tell us not what he saw, tell what happened.—A. I'll have to tell you what happened before I got there.

Q. Not before you got there, or after you left, but while you were there.—A. Well, you don't want to let me go ahead with my story.

Q. I want you to tell what happened while you were there.—A. I'm telling what happened.

Q. Go ahead and tell.—A. Why do you interrupt me for? I'm telling you Pat McNulty, lieutenant, precinct 4, after Mr. Gibbons challenged all the votes, he got excited, and the first I know a little gang came down stairs and came in the precinct—

Q. Talking about the primary, are you?—A. No, sir; I'm talking about the election.

Q. Let's take the primary first. Was it on the primary that you went there at half past 6?—A. No, sir.

Q. What time did you go there on the primary?—A. I got there about half past 8.

Q. Half past 8?—A. Yes, sir.

Q. When did you leave?—A. Left there about quarter past 9—kept going around to the different precincts.

Q. You did, and you were only there three-quarters of an hour?—A. At one time.

Q. Did you go back there later?—A. Yes, sir.

Q. When did you go there later?—A. Around 11 o'clock.

Q. How long did you stay there?—A. Short time.

Q. What do you mean by "short time"?—A. About 15 minutes.

Q. Fifteen minutes?—A. Yes, sir.

Q. Did you go back there again any time that day?—A. Yes, sir; about quarter of 12 to relieve Mr. Gibbons for dinner.

- Q. Quarter of 12?—A. Yes, sir.
- Q. How long did you stay there?—A. About 1 o'clock.
- Q. Was that the last time you were there that day?—A. No, sir.
- Q. There in the afternoon?—A. Yes, sir.
- Q. For how long?—A. Fifteen or 20 minutes several times.
- Q. Fifteen or twenty minutes several times?—A. Yes, sir.
- Q. Were you inside the booth all that time?—A. For those 15 minutes.
- Q. For those different 15-minute periods you were in the booth; what were you doing there?—A. I was just going around to see how things were going on.
- Q. And you would go from booth to booth?—A. Yes, sir.
- Q. How were things going on there?—A. Certain precincts they were fine.
- Q. That precinct we are talking about on the primary?—A. All right on the primary, far as I know.
- Q. You went in 15-minute periods on the primary to this precinct?—A. Yes, sir.
- Q. You didn't see what happened there?—A. Not while I was there.
- Q. You didn't see one bit of disorder at that precinct?—A. No, sir; not while I was there.
- Q. Not while you were there in?—A. No.
- Q. You weren't interfered with in any way, were you?—A. No, sir.
- Q. Mr. Gibbons, while you were there, wasn't interfered with in any way?—A. No, sir.
- Q. Did you see Mr. Gibbons challenge votes there that day?—A. Yes, sir.
- Q. How many votes did he challenge?—A. One or two.
- Q. When did he do that?—A. During the morning.
- Q. In the morning; did he challenge any in the afternoon?—A. Not that I know of.
- Q. Did you challenge any in the afternoon?—A. No, sir.
- Q. Did you have a list and challenge any in the forenoon?—A. No, sir.
- Q. You were just there as Gibbons's friend on primary day?—A. Yes, sir.
- Q. You weren't there to do any work?—A. Well, just go around.
- Q. You didn't do any Tague work?—A. Not in precinct 4.
- Q. Ask anybody to vote for Mr. Tague?—A. Yes, sir.
- Q. On that day?—A. Yes, sir.
- Q. In the booth?—A. Yes, sir.
- Q. Close to the rail?—A. No, sir.
- Q. How near were you to the rail?—A. About 6 feet away.
- Q. Six feet away. You asked people to vote for Mr. Tague? Did you know that was against the law?—A. Friend of mine.
- Q. Friend of yours?—A. Yes, sir.
- Q. This was a friend of yours and you whispered to him; is that so?—A. Yes.
- Q. And he was the only man you whispered to?—A. Yes, sir.
- Q. And you asked him to vote for Peter Tague for Congress?—A. Yes, sir.
- Q. Had you inquired what your rights were in the precinct? Did Mr. Gibbons tell you what you could do and what you couldn't do?—A. No, sir.
- Q. Now, did you ask anybody outside to vote for Mr. Tague?—A. No, sir.
- Q. What did you suppose your work to be down there that day?—A. What day? Primary day?
- Q. Primary day.—A. Just to go around and see things; what's going on.
- Q. On election day what time did you go there?—A. Quarter past 6.
- Q. Quarter past 6?—A. Yes, sir.
- Q. And was that the day you left about 11 o'clock?—A. Yes, sir.
- Q. And didn't go back again?—A. No, sir.
- Q. This was the day you said Sergt. Lewis ordered Mr. Gibbons to go out?—A. Yes, sir.
- Q. While you were there did you see Mr. Gibbons challenge any votes?—A. Yes, sir.
- Q. How many?—A. Oh, a dozen and a half.
- Q. Did you challenge any?—A. No, sir.
- Q. Did you have a list to challenge?—A. No, sir.
- Q. Nobody bothered you while you were in there?—A. Well, just that one party I told you about.
- Q. Told you to go out because you were challenging?—A. No, sir.
- Q. Because you were giving out stickers?—A. Yes, sir.
- Q. Did you have a right to give out stickers?—A. Yes, sir.
- Q. Who told you you had?—A. Sergt. Lewis and all these other people.
- Q. They permitted you to give out these stickers?—A. Yes, sir.

Q. All the time you were there, except for those incidents when Mr. Gibbons was ordered out, did you see anything else go on there except regular orderly voting?—A. No, sir.

Mr. CALLAHAN. That's all.

Redirect examination by Mr. HARRINGTON:

Q. Just a moment; you were at the primary election, at the precinct how long, Mr. Lebosky?—A. Precinct 4?

Q. Yes.—A. I was there 15 or 20 minutes at a time.

Q. From what period, from what time in the morning until when?—A. Got there about half past 8 in the morning and stayed until 9 and went to the different precincts.

Q. Went to the different precincts?—A. Yes, sir.

Q. How long on election day?—A. Quarter past 6 until half past 10.

Q. Quarter past 6 until half past 10?—A. Yes, sir.

Q. How long; were you inside during that time?—A. Yes, sir.

Q. What time were you put out?—A. I wasn't put out.

Q. Ordered out?—A. I was ordered out twice.

Q. What time were you first ordered out?—A. I guess that was about half past 7 or quarter of eight.

Q. And then the time you came back was when Mr. Tague came?—A. I was inside when Mr. Tague came.

Q. How soon did you go back when you were ordered out the first time?—A. I wasn't put out.

Q. I said ordered out?—A. I didn't go out.

Q. You didn't go out?—A. Yes.

Q. When was the second time you were ordered out?—A. About 15 minutes later.

Q. Did you go out that time?—A. No, sir.

Q. Stay there?—A. Yes, sir.

Q. Did the sergeant tell you to stay there?—A. Yes.

Q. And now did Sergt. Lewis say anything to you in regard to staying there at the time Mr. Gibbons finally went out?—A. He told me, he says, "It looks bad for you." He says, "It's best for you to go out."

Q. And this time you went out?—A. Mr. Gibbons called me out.

Q. You didn't go back there then?—A. No.

Q. Then, when you left the precinct, who went with you?—A. Mr. Gibbons.

Q. Anybody else?—A. No, sir.

Q. Sergt. Lewis?—A. Mr. Glynn.

Q. Sergt. Lewis?—A. He went part way.

Q. For protection?—A. Up to Court Street.

Q. For protection?—A. Yes, sir.

Mr. CALLAHAN. Wait, wait.

Mr. HARRINGTON. That's all.

Recross-examination by Mr. CALLAHAN:

Q. Do you vote?—A. Yes, sir.

Q. Where?—A. Roxbury.

Q. What congressional district is that?—A. Tenth.

Q. Did you vote that day?—A. Yes, sir.

Mr. BERMAN. That's not the tenth.

The WITNESS. No; ward 18.

Q. Now, when you say the sergeant left with you for protection, in answer to Mr. Harrington's question, there were no people outside annoying you, were there?—A. A crowd of fellows came out of the precinct at the time.

Q. And you walked along the street?—A. Up against—yes, sir.

Q. The sergeant walked with you?—A. Yes, sir.

Q. Did all those men follow you?—A. Part of the way.

Q. Did you call to the sergeant's attention the fact they were following you?—A. The sergeant knew it.

Q. Didn't he do anything?—A. No, sir.

Q. He simply walked along with you?—A. Yes, sir.

Q. These men had voted, and they simply walked along too?—A. They are not voters in that precinct.

Q. How do you know?—A. Because they didn't vote the time when we were there.

Q. That's the reason you know, and you are a stranger there?—A. I'm not a stranger there.

- Q. You live in Roxbury?—A. I was brought up in the West End.
- Q. You didn't have a list?—A. If we had stayed there long enough we could have found out.
- Q. You didn't stay?—A. I know them.
- Q. And you can't swear to it?—A. I know who they are.
- Q. Do you know their names?—A. No, sir.
- Q. How could you tell?—A. I know the people. I could tell the people there, I'd lived there long enough to know.
- Q. When this fellow told you he would give you \$5 to go home and go to bed, is that what he told you?—A. Yes, sir.
- Q. And he meant by that apparently that he would get your \$5 from Mr. Tague?—A. No, sir.
- Q. What did he say; he meant he would give you \$5 if you would go to bed?—A. Yes; and I told him to go back to jail where he came from.
- Q. Do you know him?—A. I don't know his name. I think it is Freeman, if I'm not mistaken. I know him well.
- Q. You don't know his name?—A. No, sir.
- Q. What do you mean by knowing the man well?—A. I know dozens of people I don't know their names.
- Q. Do you know anything about this man?—A. I know he has a nice little record.
- Q. Do you know whether he voted or not?—A. No; he didn't vote.
- Q. Don't know his name?—A. No, sir.
- Q. Never knew his name?—A. Didn't care to know his name.
- Q. Never asked his name?—A. I don't want to know his name.
- Q. Never asked what his name was?—A. No, sir.
- Mr. CALLAHAN. That's all.

HYMAN LEBOSKY.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss.:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

BOSTON, MASS., *May 5, 1919.*

NANCY H. HARRIS.

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss.:

I hereby certify that the foregoing in this volume, containing about 65 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

FEBRUARY 25, 1919—2.30 P. M.

ABRAHAM E. HALPERN sworn.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Abraham E. Halpern.
- Q. Where do you live?—A. 230 Marion Street, East Boston.
- Q. And you were in ward 5 on election day?—A. I was on Blossom Street. Is that ward 5?
- Q. Yes; Blossom Street is ward 5.—A. Yes, sir; I was in ward 5.
- Q. Were you accosted by anybody there on that day?—A. Yes, sir.
- Q. State just what was said and done.—A. Well, I had an appointment with my brother at 7 o'clock election morning. and I was rather late, and I got down to his house on Grove Street and found he had already gone.
- Q. Grove Street is in ward 5, just near Blossom Street?—A. Not very far from it at all. I knew my brother had left for his stable——

Mr. CALLAHAN. Tell us what was said and done.

Q. Go ahead.—A. This goes along with it, Mr. Callahan.

Mr. CALLAHAN. It is not a responsive answer.

A. And I went on my way to the stable, and I had to pass Blossom Street ward room. As I passed this ward room there was a young fellow there I knew, and he said to me—he was about from here to the door from the ward room.

Q. By that you mean about 30 feet?—A. Yes, sir; about 30 feet. And he says to me, "Throw in a vote for Fitzgerald, will you?" I said, "I don't vote in this section. I am from East Boston, so I have got nothing to do in here." As I said that there was a man who is sitting in this courtroom here. I said, "I would like to see Mr. Tague get in." But as I said that there was a young man, who is sitting in this courtroom at the present time, who said, "Go on; get to hell out of here." I said, "I will not go along. I am just passing by here, with no political intentions at all—just passing here to see my brother, and I will go along just as soon as I want to. You can't force me or anybody else, as long as I am within the law." We exchanged words; that is, he spoke to me—

Q. What did he say?—A. Various things that I would not like to say in the courtroom. There was quite a crowd standing there.

Q. What did he do?—A. He himself didn't do anything. This party didn't do a thing.

Q. Who is this man?—A. I don't know his name, but he is sitting by Congressman Tague.

Q. Point to him.—A. The man there with the moustache. [Indicating.]

Notary BERMAN. Is that the man there? Stand up.

A. The fellow with the black moustache.

Mr. O'CONNELL. For the purpose of identification we will designate him for the present as a prominent member of the Hendricks Club, who has been at these hearings from the very first.

Mr. CALLAHAN. Object.

Notary BERMAN. That may stand. He was also before the ballot law commission.

Mr. CALLAHAN. Please note my objection.

Notary BERMAN. I have seen him here every day since these hearings began.

Mr. CALLAHAN. I pray Your Honor's judgment. I haven't any desire to interrupt this examination, but you can have the witnesses testify. I don't think it is fair for Mr. O'Connell to testify. I don't think it is fair for you to get a thing like that in the record. Put your witness on the stand.

Notary BERMAN. Proceed, Mr. O'Connell.

Q. Do you know this man's name?—A. No; I do not know it. I never saw him before that time, but I remember him still. There was words exchanged, and I stood there talking for about two or three minutes, and then finally one of the fellows there, I think his name was Donovan—Inspector Leonard can tell you his name—and about four or five fellows started to chase me. I had no chance with five or six fellows, because I didn't want to start in the first place, and I knew what it meant to be assaulted by anybody on Blossom Street. I had heard of it in the past, and I didn't dare to take any chances of getting into a scrap. I went along and they chased me, and there is a schoolhouse on the corner of—I don't know the street—and they threw me down and hit me. Hit me pretty bad and threw my hat down. My hat fell down, and then afterwards I got up and walked by and I told those fellows just what I thought of them.

Q. In your opinion, was this assault due to the fact that you said you wished Mr. Tague to win on that day?—A. Absolutely.

Mr. CALLAHAN. That I object to.

Notary BERMAN. You may note Mr. Callahan's objection, and answer the question, if you know.

Q. Had this man been standing right near the polling booth there?—A. Yes, sir; right against the poll booth; and after I passed by I went to station 3, on Joy Street, and I spoke to Capt. Fitzgerald down there and told him what had happened, and he said, "You had no business down there." I said, "I just passed by there in order to go to my brother's stable." I told him I wanted to have some policeman there to protect others, not myself; I had got mine, all right, but I would like to see some other protected down in that district; and he said, "You have no business down there." I said "I had," and I argued it out with Capt. Fitzgerald, and finally he consented to send Inspector Leonard with me; and he went down with me.

Q. Police inspector?—A. Yes, sir; plain-clothes man; and he says, "Can you identify the man?" and I said, "Yes." We went down there and I identified the man, and Inspector Leonard says to me, "Meet me down at the station at 9 o'clock and we will go down and get a summons for this man; and he also told this fellow that hit me, that I identified, to be down at the courthouse at 9 o'clock. I later met Inspector Leonard and we went to the courthouse. After waiting there for some time we finally managed to see a judge there. I don't know his name, and Mr. Leonard and this fellow that hit me and I went in to the judge and I asked that I be given a warrant for his arrest—that is, put him in court for hitting me. And this judge asked me if I had any witnesses, and I said I had none, because I didn't know anybody down there at all. I had never gone down there to any great extent. He said, "Can you furnish one witness?" and I said, "No, sir; I can't." He said, "You have no chance at all. If I do give you a summons, you have no chance at all against that crowd down there, because they can produce 500 witnesses, if necessary, and throw you right out. Even though you were hurt, and all that, you have no chance at all in court, because you have nobody to testify to this claim of yours." I felt pretty bad about that. Of course I was hurt a little—

Q. What further was said?—A. Well, this judge absolutely refused to grant me a summons on these grounds, and finally we left the courthouse; but as I was leaving the courthouse—I had my brother's machine there—and as I stepped into the machine this fellow says to me, "We will get you yet." He hasn't as yet; I suppose he may in the future.

Q. Do you know what his name was?—A. Donovan, I think, but I am not sure. Inspector Leonard can tell you.

Q. Have you told us about it now, Mr. Halpern?—A. That is all I know about it.

Cross-examination by Mr. CALLAHAN:

Q. You had no interest in that election whatever, did you?—A. Absolutely none.

Q. Are you a voter?—A. I was not at the time.

Q. Are you a voter now?—A. I will be at the next election.

Q. Have you ever voted?—A. No, sir.

Q. You had some interest in the election, didn't you?—A. The only interest I had was that I would like to see Mr. Tague win.

Q. And following out that interest, did you do any work for Mr. Tague?—A. Absolutely none.

Q. Didn't give out any of his stickers?—A. No, sir.

Q. Didn't go from street corner to street corner asking people to vote for him?—A. No, sir.

Q. Did you ask anybody to vote for him?—A. I didn't ask anybody. I didn't ask anybody at all.

Q. Sure you didn't ask anybody?—A. Absolutely.

Q. Is your brother a voter?—A. One of them, but he doesn't vote. He isn't in this vicinity at all. He is in Cambridge.

Q. Are you sure you didn't ask anybody to vote for Mr. Tague?—A. Absolutely.

Q. Will you tell us why you stopped at the Ward room that morning?—A. I was stopped by a young man there that I knew.

Q. What was his name?—A. I can not tell you. You can find him any time at the Garden Street garage.

Q. What does he do?—A. He is a chauffeur.

Q. How long have you known him?—A. About four weeks.

Q. You had known him four weeks then or four weeks now?—A. No; then.

Q. Where did you meet him first?—A. At that garage. My brother bought a machine and it is through that I met him.

Q. He asked you to vote?—A. Yes.

Q. For any particular person?—A. Yes.

Q. Vote for Mr. Fitzgerald?—A. Yes.

Q. Nothing very alarming in that?—A. Nothing alarming; no.

Q. That didn't cause any trouble, did it?—A. No.

Q. You didn't resent that?—A. I didn't resent it; no.

Q. You would just as quickly ask anybody to vote for Mr. Tague?—A. I wouldn't right near there.

Q. You would somewhere else?—A. Where I knew anybody.

Q. You did ask people to vote for Mr. Tague, didn't you?—A. No.

Q. When he asked you to vote for Mr. Fitzgerald and you said no, did you go along about your business then?—A. I tried to, but I was stopped.

Q. Who stopped you?—A. Of course I had to answer this man's question.

Q. Who stopped you?—A. This fellow did who asked me.

Q. How did he stop you?—A. He said "What is the matter"?

Q. He didn't put his hands on you?—A. No, he didn't.

Q. He said "What was the matter"? Could you go on your way then?—A. I just answered the question.

Q. You were kind of angry then, weren't you?—A. No, sir.

Q. What did you say when he said "What is the matter"?—A. I said, "I don't live here, to begin with."

Q. You told him you didn't live there?—A. Didn't live in this section of the city.

Q. Then what did he say?—A. He says "Where do you live"? and I told him.

Q. Now, up to that time you knew him for four weeks. There was no reason why you should quarrel with him or he with you?—A. No, sir.

Q. He asked you to vote for Mr. Fitzgerald and you said you didn't live there. Why didn't you go on your way then?—A. That man there [indicating] interrupted me.

Notary BERMAN. What man?—A. That man there.

Mr. O'CONNELL. The man with the black mustache.

Q. And was he there when you were telling this man you lived in East Boston?—A. Yes.

Mr. O'CONNELL. His name is Feldman.

Q. This man was there when you were talking to the fellow that works in the garage?—A. Yes, sir.

Q. And he heard distinctly your telling the other man that you lived in East Boston?—A. I think he ought to be able to.

Q. There is no doubt about it, is there?—A. I don't think so.

Q. So that when he came near you he knew perfectly well that you were not a voter in that precinct, didn't he?—A. He didn't come near me.

Q. When he was present and you were talking to the other fellow, you made it plain you were not a voter there?—A. I made it plain to the fellow I was talking to. I don't know as I made it plain to him.

Q. He was right there, wasn't he?—A. He was about 20 feet away.

Q. Twenty feet away?—A. Yes; the other side of the ward room.

Q. And did you do anything to attract his attention in any way?—A. No, sir; he did it to my attention.

Q. What did he do?—A. He said, "Get to hell out of here, you wise guy."

Q. Without you saying anything or doing anything to this man he came over to you and said, "Get to hell out of here, you wise guy"?—A. Yes, sir.

Q. That was it?—A. Yes, sir.

Q. Without your saying a word to him?—A. Yes, sir.

Q. Didn't you think that was pretty funny conduct for a man?—A. Yes, sir; that is just what I stopped to answer.

Q. You are quite sure you didn't say anything to him?—A. Not previous.

Q. And you are quite sure he was so far away he could not hear what you were saying?—A. I don't know whether he could hear or not.

Q. He was 20 feet away and you were talking naturally enough?—A. A natural way of talking.

Q. Just as you are now?—A. Yes, sir.

Q. You never saw this man before?—A. No, sir; I never did.

Q. He didn't know you?—A. I don't think so.

Q. You never did anything to him?—A. No, sir.

Q. And you never spoke to him in your life before?—A. No.

Q. You say that some other young men followed you?—A. Yes.

Q. Were they with him?—A. Standing right along with him.

Q. Were they where they could hear you when you were talking to the young man from the garage?—A. Yes; I think they could hear me.

Q. They heard you?—A. I think they could hear me.

Q. So if they were there they heard you telling this young man from the garage that you lived in East Boston?—A. Yes, sir.

Q. And that you didn't vote in that precinct; that was so, wasn't it?—A. Yes.

Q. So there wasn't any attempt by these young men to intimidate you from voting there, was there? They knew you didn't vote there, didn't they?—A. I don't know whether they did or not.

Q. Didn't you say they heard you?—A. I don't know whether they did or not, but I should imagine they did.

Q. How far away were these other young men?—A. They were around there.

Q. Were they as far away from you as the stenographer?—A. No; they were farther away than that, all right.

Q. As far away as this?—A. I should say 15 feet.

Q. Fifteen feet away, and you were talking just in an ordinary voice?—A. Yes.

Q. And all you said was, "I live in East Boston and I don't vote here"?—A. No; I said that I would like to see Mr. Tague get in.

Q. They were 15 feet from you?—A. I should judge about that.

Q. And what makes you think they heard you?—A. I think that any man could hear in that distance reasonably enough.

Q. Hear your voice within 15 feet?—A. I should think so.

Q. Did they say anything to you?—A. They didn't say anything to me, but they chased me; that is all.

Q. You never did anything to them?—A. No.

Q. You never said anything to them before that morning?—A. No.

Q. You say some one of these young men struck you?—A. Yes.

Q. Where?—A. In the ear.

Q. You don't know who he was?—A. I do.

Q. What is his name?—A. I think it is Donovan—Jimmy Donovan.

Q. Do you know where he lives?—A. No.

Q. Where he works?—A. No.

Q. Ever see him before that time?—A. No, sir.

Q. Ever seen him since?—A. No, sir.

Q. Do you know the names of any of the other young men that were there?—A. No, I don't; I wouldn't have known his name if it was not for Mr. Leonard.

Q. You told your story to the judge the next morning?—A. Yes, sir; that same morning.

Q. And he said substantially as you have told us?—A. Just the same thing.

Q. And he said that unless you had a corroborative witness it was no use to go into court?—A. Yes.

Q. You don't claim that the judge had any interest in this election?—A. I don't know about that. I can not say anything about that.

Q. When did you first talk to Mr. Tague or any one of his friends after the election?—A. I had an appointment with a friend of mine at 10 o'clock.

Q. No; just answer my question.—A. About half past 10.

Q. When?—A. On that day.

Q. Election day?—A. Yes.

Q. With whom did you talk?—A. Joe Kane.

Q. You call him Joe?—A. I have heard everybody call him that, and since that I have called him Joe.

Q. Do you know him well?—A. No, sir.

Q. When did you meet him?—A. The only time I met him was at that time.

Q. Where?—A. At Mr. Tague's headquarters.

Q. What made you go up there?—A. My chum told me to tell this story to Mr. Tague's manager.

Q. Who is your chum?—A. Mr. Goldberg.

Q. Who is Mr. Goldberg?—A. He lives at 217 Saratoga Street.

Q. He was interested in the campaign of Mr. Tague?—A. He would like to see Mr. Tague get in.

Q. Interested in this campaign—worked for Mr. Tague?—A. No, sir.

Q. Did he give out stickers that day?—A. No, sir.

Q. How do you know?—A. Because he worked all that day.

Q. Can you bring any witnesses in here, sir, to testify to this alleged assault besides yourself?—A. If I had I could have brought that man to court that day.

Q. You can not do it, can you?—A. No, sir; only my friend at that time I was just telling you about.

Redirect examination by Mr. O'CONNELL:

Q. It was very evident that they didn't want anybody around that part of the city except somebody who lived there?—A. Yes, sir.

Q. They didn't want anybody outside to see their nefarious work on that day, that is about the size of it?—A. Yes, sir.

(Objection by Mr. Callahan and his objection noted.)

Q. A decent citizen that might stop to see it was assaulted; that is what happened, isn't it?—A. Yes, sir; that is what happened.

Mr. O'CONNELL. That is all.

ABRAHAM E. HALPERN.

MICHAEL O'CONNOR sworn.

Direct examination by Mr. O'CONNELL:

Mr. O'CONNELL. Mrs. O'Connor was summoned and Mr. O'Connor volunteered to appear before us and give the story, and for that reason he is put on as a volunteer at the present time.

(This procedure objected to by Mr. Callahan and his testimony admitted by Notary Berman.)

(Mr. Callahan's objection noted.)

Q. What is your full name?—A. Michael O'Connor.

Q. And where are you registered from as a voter, Mr. O'Connor?—A. 25 Blackstone Street, the New England House.

Q. You voted from there on election day?—A. Yes.

Q. Is ward 5 your precinct?—A. Yes, sir.

Q. Where do you live?—A. I live there.

Q. Where is your home?—A. There.

Q. Don't you live in Newton?—A. No, sir.

Q. How long have you lived in Newton?—A. My family has been there for 9 or 10 years.

Q. Don't you stay with your family?—A. Occasionally.

Q. What do you mean by "occasionally," tell us in full?—A. Do you want me to go all over the whole situation; is that it?

Q. Probably that would be the best way, in order that we may have no mistake.—A. I have lived in Boston about 40 years; that is, about that—38 or 40 years. About 9 or 10 years ago we had some small children in our family, and at that time we were in rather congested apartments, and we had, or the children had, some trouble with the neighbors, and I told my wife that the best thing for us to do was to get out of town where we had more room, and we bought this place in Newton and moved our family there so our children could have the advantages of the schools there. We intended to move back after the children were grown up, and that is our intention now.

Q. Your children are now going to the Newton schools?—A. Not to the public school.

Q. In Newton?—A. They are.

Q. Near your home?—A. Yes, sir; quite near.

Q. What part of Newton do you live in?—A. Walnut Park.

Q. It is a city just outside of Boston?—A. Seven miles out.

Q. How many years have you been there?—A. I think I bought that place either 9 or 10 years ago last summer.

Q. And it is furnished with your furniture?—A. Yes, sir.

Q. And, I suppose, outside of a few nights when it is convenient for you to stay in Boston, you stay at Newton?—A. I am a commercial traveling man and away from home quite considerable.

Q. And aside from the time you are traveling, your home is in Newton?—A. No.

Q. All your furniture is in Newton?—A. Yes.

Q. How large is your house in Newton?—A. Fifteen rooms, I think.

Q. And garage attached to it, or a barn?—A. I got some chicken houses and chicken runs.

Q. And your clothing is kept in Newton?—A. Yes.

Q. And your wife has never stayed at the New England House with you?—A. She may have a few times.

Q. When? I thought you told me she never did?—A. I would not be positive. If she did it was a long time ago.

Q. Do you know whether your wife even knows where the New England House is?—A. I guess she is not very familiar with that district.

Q. How old do you say your children are?—A. One 7, one 10, and one 24.

Q. This house in Newton is in your name?—A. In the name of myself and my wife.

Cross-examination by Mr. CALLAHAN:

Q. You don't vote in Newton, do you, Mr. O'Connor?—A. No, sir.

Q. And have you always voted in Boston?—Always voted in Boston.

Q. And you consider the New England House your home?—A. I consider it my home.

Q. And how long have you voted from the New England House?—A. I should say since I have been there—9 or 10 years.

Q. And you have done that always of your own volition? Nobody asked you to?—A. Nobody asked me to.

Q. In April of last year did you reside at the New England House?—A. The same as I am now.

Q. Were you there on the 1st of April?—A. Yes.

Redirect examination by Mr. O'CONNELL:

Q. I forgot to ask you—you don't keep this room at the New England House throughout the year, do you—the same room?—A. No.

Q. Whenever you go there they assign you whatever room they may have?—A. When I went there and wanted a room, they gave me one.

Q. When was the last time you were registered at the New England House?—A. On the register, do you mean? I don't know as I was ever registered there. I don't remember of ever signing the New England House register, but I may have. I don't remember.

By Mr. CALLAHAN:

Q. You are known to the proprietor there?—A. Yes, sir.

MICHAEL O'CONNOR.

EDWARD I. KELLY, recalled.

By Mr. O'CONNELL:

Q. In this morning's testimony you stated you were very much interested in Mr. Feeney's campaign in ward 1?—A. Very much.

Q. You directed it in a great part?—A. Gave my services wholly.

Q. To his candidacy, and you were generally accepted as the man who led the fight in ward 1?—A. If you say it that way. There is no written statement to that effect. I gave my services, but I don't want it to go down in record that way. I gave my services, the same as I gave them to Mr. Tague four years ago.

Q. You were leading the fight for him in ward 1 as best you could?—A. I won't say I was leading it. I was very strong for him, being a resident of ward 1.

Q. And you were prominent?—A. That is for the outside people to judge.

Q. You had to do with the putting of men to work at the polls?—A. I did? I didn't know I did.

Q. Didn't you?—A. No.

Q. Where did you get the money to pay them? Where did you get the money you paid out for workmen in ward 1 on election day?—A. I received no money. I put no men to work.

Q. You were on the stump for Mr. Fitzgerald?—A. Yes, sir.

Q. And there were a number of workers for Fitzgerald in the ward that day?—A. Just as many for Tague.

Q. Won't you answer my question?—A. Yes.

Q. Do you know their names?—A. I was not interested only in my own.

Q. Do you know the names of any in your ward working for Mr. Fitzgerald on election day?—A. Well, sometimes a man lives in ward 1 and he is more interested in ward 2.

Q. Don't you want to answer my question?—A. Martin H. Elin lives in ward 1 and is more interested in ward 2.

Q. Who else?—A. Michael J. Brophy.

Q. Ward 1?—A. Ward 2.

Q. Didn't you state that you were in ward 1?—A. Ward 1.

Q. Were you working in ward 1?—A. Yes.

Q. I am asking you about ward 1 now.—A. Thomas R. Kelley. I don't remember any others.

Q. Who handled the money over there in that ward?—A. I don't know.

Q. Did you handle the money over there that day?—A. No, sir.

Q. Did you handle the money there for the few days before? Did you handle any money for Mr. Lomasney, John F. Fitzgerald, or Michael Brophy, or any men on behalf of the candidacy of Mr. John F. Fitzgerald?—A. No, sir. No more than I did four years ago for Mr. Tague.

Q. By that what do you mean?—A. I handled the same amount of money for Mr. Fitzgerald as I did four years ago for Mr. Tague.

Q. By that what do you mean?—A. Not any money.

Q. Why do you interject in your answer about four years ago for Mr. Tague? Any particular reason?—A. I treat a man as I find him. When a man changes I change.

List of witnesses who had been summoned for the day read by Notary Berman at Mr. O'Connell's request.

Mr. O'CONNELL. I will now read this into the record, with the assent of Mr. Callahan.

FEBRUARY 25, 1919.

TIMOTHY F. CALLAHAN, Esq.,

Attorney and Agent for John F. Fitzgerald.

40 Court Street,

Boston, Mass.

DEAR SIR: Please take notice that on Thursday, February 27, 1919, we shall examine the following witnesses before Hon. A. C. Berman, notary public, in the matter of the Tague-Fitzgerald contest:

Melancthon W. Burlen,

Frederick J. Finnegan,

Edward P. Murphy, and

Jacob Wasserman; addresses, election commission, city hall, Boston.

Thomas F. Pedrick, sergeant at arms, State House, Boston.

The hearing will be held at the United States court room 395, and I shall then ask that the hearing adjourn to the office of the election commissioners at the city hall, Boston.

Very truly yours,

JOSEPH F. O'CONNELL,

Attorney for Peter F. Tague.

Mr. O'CONNELL. May it please the Court, it is very evident that an attempt is being made to interfere with this hearing. Over 50 witnesses were summoned to be here for to-day. They were summoned according to law by the United States marshal. Most of them were summoned by leaving the summons in hand, as you will observe by the returns from the marshal. It is very evident that they are not going to come here and that they are deliberately staying away. This is in keeping with the policy of this whole contest from the very beginning. It is the same kind of procedure that took place before the ballot law commission when witnesses were summoned by the sergeant at arms. The United States Government asks through the instrument of State officers, the United States marshals, that witnesses be called here to testify in this case. It is very significant that the attorney for the contestee, Mr. Fitzgerald, has on several occasions gotten up in this room and told witnesses they didn't need to answer. It is very evident that they intend to prolong and interfere with this hearing, and I, therefore, ask you, sir, on behalf of Mr. Tague to take this matter up immediately with the United States district attorney and see that these witnesses are brought in here, and that the grand jury indict such witnesses as are not excused according to the statutes by sickness or disability from appearing here. Something must be done to expedite this hearing. At this hour in the afternoon there are no witnesses to respond after they have been served in hand according to the returns and we have put up with this now for four or five days and I don't care to put up with it any longer and I ask, therefore, that you take immediate action.

Mr. CALLAHAN. Mr. Notary, I suppose I would not answer my brother except for the fact that he mentions me in this tirade he has just gotten out of his system. I think my brother is especially pleased that there are not witnesses here, because it gives him a chance to blow off like this every once in a while, but I want to say I have said nothing to witnesses here, either in the court room or out of the court room, to deter them from coming here. We have in no way interfered with witnesses, and we do not propose to interfere with witnesses. We should be glad to have all the witnesses here, and we shall be most glad if you would consult with the district attorney and see if witnesses can be brought here. It is not our business. It is your business and the business of Mr. O'Connell, but we assure you we won't interfere in any way. I want to call your attention to the fact that this statute gives the contestant or even the contestee the right only to summon people who live within the county. That is clear. That can not be misunderstood. That is the ruling of the statute, absolutely, and when my brother or his friends take it upon themselves to summon people outside of the county it is only fair to assure you that these people know their

rights and need not answer the summons. * * * He has no right to charge to the door of the attorney of Mr. Fitzgerald the interference of witnesses.

Mr. O'CONNELL. I say that the notary sitting for Mr. Fitzgerald has said repeatedly that witnesses don't need to answer the summons that has been handed to them. I call to your attention section 116, of Revised Statutes, which goes on to state that any person who having been summoned in the manner above directed refuses or neglects to appear unless prevented by sickness or unavoidable necessity shall also be liable to an indictment for a misdemeanor and punishable by a fine and imprisonment.

Mr. CALLAHAN. Why don't you go forward with it?

Mr. O'CONNELL. I am asking the notary to go forward with this, and we are going to go forward with it. I ask an adjournment right away, and we will go right at it.

(Discussion.)

Notary BERMAN. In addition to what the statute says that refers to the summoning of witnesses and the disregard of summonses, you, as attorney for the contestant, Mr. O'Connell, have a right, in my opinion, to proceed to the United States court or to a judge sitting in the United States circuit or district court and ask that a *capias* issue for the arrest of witnesses failing to appear and brought into court by the marshal or any other marshal serving or having the right to serve your subpoena.

Notary MANCOVITZ. I wish the statement made that the statements made by Mr. O'Connell are absolutely untrue and there is no foundation for them.

(Adjourned until 10 o'clock a. m., Wednesday, Feb. 26, 1918.)

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss.:

I, stenographer appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by a notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

DORA H. BARNES.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Dora H. Barnes and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss.:

I hereby certify that the foregoing in this volume, containing about 22 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,

Notary Public.

BOSTON, MASS., *May 5, 1919.*

FEBRUARY 26, 1919—2 p. m.

Mrs. MINNIE GORDON, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Minnie Gordon.

Q. Where do you live?—A. 7 Melton Road, Brighton.

Q. And you are the wife of Isaac Gordon?—A. Yes, sir.

Q. What is Mr. Gordon's business?—A. Hotel business.

Q. Where is his place of business?—A. 128 Court Street.

Q. How long have you been living at Melton Road, Brighton?—A. Since last May.

Q. And before that, where did you live?—A. In Roxbury.

Q. What part of Roxbury?—A. 20 Seaver Street.

Q. And how long did you live at 20 Seaver Street?—A. Two years.

Q. With your husband and family?—A. Yes.

Q. How many children have you?—A. Three.

Q. What are their names?—A. The oldest, Harold.

Q. How old is he?—A. 11; Sidney, 8; and Ellis, 2 years.

- Q. And I presume the two older children, being of school age, go to school?—
A. The Bennett School.
- Q. That is in Brighton?—A. In Brighton.
- Q. Your husband's age is about 47?—A. About 45.
- Q. You never lived at 128 Court Street?—A. No.
- Q. Nor your children?—A. No.
- Q. And before living in Roxbury—three years you say you lived in Roxbury?—
A. Two years.
- Q. And before that, where did you live?—A. I have lived in Roxbury for the past 12 years.
- Q. Since you were married?—A. Yes.
- Q. And with your husband and children as they came along?—A. Yes.
- Q. And your husband was here this morning, was he?—A. Yes.
- Q. Is he here now?—A. No.
- Q. Do you give the police the name of your husband when they come around on the 1st of April?—A. No.
- Q. Is that because you receive orders from him not to?—A. He lives at the hotel most of the time.
- Q. Does he give you orders not to give his name when the police come and ask who the men are in the house?—A. He has been——
- Q. Won't you answer my question? Does he tell you not to give his name?—
A. No.
- Q. How does it happen that you do not give the names of the male inhabitants of your house?—A. Because he does not live home very often.
- Q. By that what do you mean?—A. He doesn't come home to sleep.
- Q. On the 1st day of April?—A. All the time.
- Q. Doesn't he sleep at home with you?—A. No.
- Q. How long since that has been?—A. For the past three years.
- Q. Now, Mrs. Gordon, I don't want to interfere with you, but Mr. Gordon has been home with you in the last week?—A. He comes home during the day.
- Q. Oh, he comes home during the day?—A. Yes.
- Q. Your husband comes home every day?—A. Most every day.
- Q. And the reason he isn't home nights is because he is working nights? That is about the reason, isn't it?—A. He doesn't work.
- Q. He looks after his hotel business nights?—A. Yes.
- Q. And daytimes he is home? Now, he owns the furniture in your home in Brighton?—A. Yes.
- Q. And he pays all the bills?—A. Yes, sir.
- Q. Does he own the house?—A. Yes, sir.

Cross-examination by Mr. CALLAHAN:

- Q. Now, Mrs. Gordon, 128 Court Street, do you know what that is?—A. It is a hotel.
- Q. And the name of the hotel is what?—A. The Higgins House.
- Q. And Mr. Gordon is the proprietor of the Higgins House?—A. Yes, sir.
- Q. How long has he been the proprietor of the Higgins House?—A. I don't know.
- Q. Several years?—A. Four or five years.
- Q. And I think you said in answer to Mr. O'Connell that because of his business he stays at the hotel almost every night.—A. Yes, sir.
- Q. And that happens throughout the whole of the year, doesn't it?—A. All the time.
- Mr. CALLAHAN. I think that is all.

Mrs. MADONE MORGAN.

Direct examination by Mr. O'CONNELL.

- Q. What is your full name?—A. Madone Morgan.
- Q. And where do you live?—A. 685 Boulevard, Point of Pines.
- Q. And do you know Bernard E. Grant?—A. Yes.
- Q. Where does he live?—A. On the Boulevard, about six houses from us.
- Q. Do you know his brother, John J. Grant?—A. Yes.
- Q. Does he live in the same house?—A. He lived in the same house until lately.
- Q. How lately?—A. About a month ago.
- Q. How long has Bernard E. Grant lived there?—A. Mr. Grant has lived there as long as I have been on the Boulevard, and that is three years. I don't know how long before.

Q. How long has John J. lived there?—A. About the same time. He lives with his mother next door.

Q. And both of them have lived there at least three years?—A. Yes.

Q. How old a man is Bernard E. Grant?—A. I haven't any idea.

Q. He spends his time at his home regularly so far as you have observed?—A. So far as I know.

Q. He is a contractor?—A. I don't know what his business is.

Q. How old a man is he?—A. I haven't any idea.

Q. By that, what do you mean?—A. Well, I wouldn't know how old he is because I only see him going in and out.

Q. Any children?—A. No.

Q. Is he married?—A. Yes.

Q. Lives there with his wife?—A. Yes.

Q. Is John J. Grant married?—A. Yes; married within about six weeks, I imagine.

Q. And does he live there with his mother?—A. Yes.

Q. You know that Bernard E. Grant is a Boston contractor?—A. Well, I think he is, but I don't know for sure.

Q. And that his brother is also?—A. No; I believe his brother is a lawyer.

Q. Did you know that Bernard E. Grant was a partner of Martin M. Lomasney?—A. No.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mrs. Morgan, you don't know John Grant very well, do you?—A. No.

Q. Ever speak to him?—A. Yes.

Q. And when was the first time you spoke to him?—A. Well, about three years ago when we moved down on the Boulevard.

Q. And how frequently do you meet John Grant? —A. Well, I should say maybe three or four times a year.

Q. Three or four times a year? And John Grant up until six weeks ago was a single man to your knowledge?—A. I could not tell you just the time, but I know he was married just a short time ago.

Q. Within two months?—A. About two months.

Q. And you now recall having met him about two or three times during the past year?—A. Well, just about that.

Q. Now, I don't suppose you know, Mrs. Morgan, where John Grant was last March or April?—A. No, I really haven't any idea.

Q. You don't know where Bernard Grant was last March or April, do you? A. No; I do not.

By Mr. O'CONNELL:

Q. Do you know where his wife was during last year?—A. I think she was living down on the Boulevard. I think she was there most of the time.

By Mr. CALLAHAN:

Q. Do you know she was there in April?—A. No; I haven't any idea.

By Mr. O'CONNELL:

Q. You assumed she was there right along?—A. I imagine she was. That is where she lives.

Q. You didn't see the house closed up?—A. No.

By Mr. CALLAHAN:

Q. That is a place where people go to live in the summer?—A. Some people only live there in the summer, but some live there all the year round.

Q. A great many people go and live there in the summer?—A. Yes.

By Mr. O'CONNELL:

Q. That is further up the beach, though, isn't it?—A. Some people go for the summer.

Q. You live there the year round?—A. Yes.

Q. And the Grants live there the year round?—A. So far as I know.

Q. Their house has not been closed up like other houses?—A. No, I don't think so.

Mr. O'CONNELL. That is all.

Mrs. MADONE MORGAN.

Mrs. Day, wife of Edward P. Clark, called as a witness and not present.

Mrs. MARGARET J. McCAFFREY, sworn.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Mrs. Margaret J. McCaffrey.
 Q. And where do you live?—A. Medford.
 Q. What is the street and number, please?—A. 28 Stanley Street.
 Q. Medford is a city outside of Somerville?—A. Yes, sir.
 Q. Two miles away?—A. Yes, sir.
 Q. And you are the wife of James McCaffrey?—A. Yes, sir.
 Q. And how long have you been living in Medford, Mrs. McCaffrey?—A. Seven years.
 Q. And with your family?—A. Yes, sir.
 Q. What is it composed of?—A. Five.
 Q. What are their ages?—A. The oldest is 21; 20, 18, 16, and 13.
 Q. Any of your children go to school in Medford?—A. Yes; the youngest.
 Q. What is your husband's business?—A. He works in B. F. Brown's on Fulton Street.
 Q. Have you ever lived at the Hotel Lucerne in Boston?—A. No, sir.
 Q. Did your husband?—A. No, sir.
 Q. Do you know where your husband does vote?—A. No; I don't.
 Q. When the assessors come around in May, is his name given to the assessors, do you know?—A. Yes, sir.
 Q. And how old is your husband?—A. He is 54.
 Q. Can you describe his build?—A. He is tall and thin.
 Q. Taller than you?—A. Yes, sir.
 Q. About 6 feet tall, isn't he?—A. Yes; I think he is.
 Q. You don't actually know where your husband votes, do you?—A. No, sir.

Cross-examination by Mr. CALLAHAN:

- Q. What do you say your husband's business is?—A. He is with B. F. Brown, blacking business on Fulton Street.
 Q. Do you know what he does there?—A. A shipper.
 Q. In B. F. Brown's, and where is that located?—A. On Fulton Street, I don't know the number.
 Q. What sort of a business is it?—A. Shoe blacking.
 Mr. CALLAHAN. That is all.

Mrs. DAY called and not present.

Miss AGNES GALVIN, sworn.

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Agnes Galvin.
 Q. And where do you live?—A. 22 Myrtle Street, Boston.
 Q. And you run a lodging house there?—A. Yes.
 Q. Among your lodgers is there a Charles E. Maynard?—A. Yes.
 Q. How old a man is he?—A. I don't know just how old he is—about 35.
 Q. What is his business?—A. Photographer.
 Q. And where does he work?—A. For the Avery Studio.
 Q. And where is their place of business, do you know?—A. I don't know, but they have several places.
 Q. A place on Tremont Street and one in Pemberton Square?—A. Yes, and on Court Street and all over.
 Q. Do you give his name to the police on the 1st of April when they come around?—A. Yes.
 Q. And now you are sure of that?—A. I always do. I always give their names.
 Q. Myrtle Street is over on the further end behind the State House on Beacon Hill?—A. Yes.
 Q. Did you give it last year the same way?—A. Yes; but Charles Maynard doesn't sleep in the house.
 Q. I am asking you about giving his name?—A. Yes.
 Q. Have you seen Mr. Maynard recently?—A. No; I haven't seen him.
 Q. When did you last see him?—A. I see him perhaps once in two or three months.
 Q. Did you see him within a month?—A. Yes.
 Q. Where?—A. He came to his room and changed his clothing.
 Q. And did you have a talk with him?—A. No.

Q. Have you seen him since an officer called at your house in reference to him?—A. Nobody called on me. If they did I did not see them.

Q. Are you positive you didn't have anybody calling at your house asking you in reference to him, with whom you talked?—A. Yes; I am positive.

Q. I understand you to say he paid for his room every month?—A. He pays for his room every week.

Q. And he has done that for three or four years? A. He doesn't pay me, he puts it under his pillow. He is in my house five years last June.

Q. When he comes, he comes in and goes out and you don't bother him?—A. Yes.

Q. I see. Have you many other lodgers in the house?—A. Yes.

Q. How many others, please?—A. It is a small house, 8-room house.

Q. And you have seven or eight other lodgers?—A. Have only four or five with our own.

Q. And I believe you give the names of all of them to the police?—A. Yes.

Cross-examination by Mr. CALLAHAN:

Q. As a matter of fact, you have more than one lodging house, haven't you?—A. Three.

Q. And are the three lodging houses on Myrtle Street?—A. Yes; 31 and 3 Ash Place and 22 Myrtle Street.

Q. At which house do you live?—A. I live in 31 and 22 between them. My sister lives in 22.

Q. And you live in 31?—A. Yes.

Q. And sometimes you live in the other one?—A. Yes.

Q. What is the street and number of the other one?—A. I have a housekeeper in 3 Ash Place.

Q. In which house does Mr. Maynard pay for the room?—A. In 22 Myrtle Street.

Q. 22 Myrtle Street?—A. Yes.

Q. And that is where your sister lives?—A. Yes.

Q. So you don't know whether Mr. Maynard comes there or not?—A. Yes; I do know.

Q. From seeing him there?—A. Yes.

Q. Isn't it a fact, Miss Galvin, that you said a moment ago that sometimes you only saw him once in two or three months?—A. Yes; that is a fact.

Q. That is the truth?—A. Yes; that is the truth.

Q. And you can not tell us, can you, if you saw Mr. Maynard there in March or April of last year?—A. Mr. Maynard doesn't sleep there once in three months. He has a room at the Hotel Royal and comes to my house to change his clothes and take a bath, because his clothes are safe, and the room he has in my house is a small one.

Q. Where is the Hotel Royal?—A. On Court Street; I don't know the number.

Q. And you know that for a fact, do you?—A. I knew that for a fact when he came to the house; yes.

Redirect examination by Mr. O'CONNELL:

Q. This hotel is one of those 25, 50, and 75 cent a night houses?—A. I don't know what it is.

Q. And does he tell you it is unsafe to leave anything there?—A. Yes; he told me that when he came to the house.

Q. Tell you no respectable man would be found dead there and that he didn't want his belongings found there?—A. No; he was afraid he would lose his clothes.

Q. You say you get your dollar each week?—A. Yes.

Q. Under his pillow?—A. Yes, sir.

Mr. CALLAHAN. I don't think she said that.

Q. Didn't you say that?—A. He leaves his room rent under his pillow.

Q. Each week?—A. Sometimes he leaves a month's rent in advance.

Q. When was the last room rent you got from him?—A. A week ago.

Q. How much was that then?—A. It was \$3.

Q. That paid him up for three weeks?—A. Yes; he always pays his rent in advance.

Q. Rent is payable in advance from the lodgers?—A. Yes.

Mr. O'CONNELL. That is all.

AGNES GALVIN.

DANIEL J. CROWLEY, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Daniel J. Crowley.

Q. And where do you live?—A. One hundred and eighty Thorndike Street, Cambridge.

Q. How long have you lived there, Mr. Crowley?—A. About 22 years.

Q. And you are married and have your family there?—A. Yes, sir.

(Objection by Mr. Callahan to this witness testifying because he was not summoned.)

Mr. CALLAHAN. Mrs. Crowley was summoned and Mr. Crowley comes here and tells us his wife is unable to come because of sickness.

Witness allowed to testify because he is a voluntary witness come to explain his wife's absence.

Mr. Callahan's objection noted.

Q. Where do you vote?—A. In ward 2, precinct 2, Cambridge.

Q. Have you ever voted from 19 Causeway Street, Boston?—A. No, sir.

Q. Do you know anybody who voted there under your name?—A. No, sir; I do not.

Q. Did you ever register there?—A. No, sir.

Cross-examination by Mr. CALLAHAN:

Q. How old are you?—A. Thirty-nine years.

Q. And how tall are you?—A. Five foot six.

Q. What is your weight?—A. One hundred and twenty-five pounds.

Q. Did you ever live in the West End?—A. Yes, sir.

Q. Did you ever know another Daniel J. Crowley there?—A. Yes, sir.

Q. Old Dan Crowley?—A. Yes, old Dan Crowley.

Q. And he lives at the address Mr. O'Connell read?—A. No, sir; he does not.

Q. Did you ever know Daniel J. Crowley that lives on Anderson Street?—A. Yes; that is the one we are talking about.

Q. How tall is he?—A. About the same, about five foot six, five foot five and a half.

Q. About the same age?—A. Yes; about the same age.

Q. About the same weight?—A. Yes, sir.

Redirect examination by Mr. O'CONNELL:

Q. Did you ever vote in that ward?—No, sir.

Q. This Mr. Crowley that lived on Anderson Street, where does he live now?—

A. I haven't seen him since I went to school over in the West End.

Q. Anderson Street is some little distance away from Causeway Street?—A. Yes.

Mr. O'CONNELL: Nineteen Causeway Street is the Lucerne, or one of these one-night hotels that have been described here.

Mrs. ANNIE MANNING, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Annie Manning.

Q. Where do you live?—A. One hundred and three St. Alphonsus Street, Roxbury.

Q. You are the wife of Martin Manning?—A. Yes.

Q. And does he live with you at St. Alphonsus Street?—A. Yes, sir.

Q. How many children have you?—A. Two.

Q. How old are they?—A. One is 13 and one 11.

Q. Do they go to school?—A. Yes, sir.

Q. Where?—A. The girl goes to the Roxbury High School and the boy goes to the Mission Church Parochial School.

Q. That is near St. Alphonsus Street?—A. Yes.

Q. How long have you lived there?—A. Almost six years.

Q. What is your husband's business?—A. Freight handler.

Q. For whom does he work?—A. The Boston & Albany Railroad.

Q. How long has he worked there?—A. Two years.

Q. Prior to moving to St. Alphonsus Street, Roxbury, where did you live?—A. Thirty-two St. Alphonsus Street.

Q. How long did you live there?—A. Seven years.

Q. So for 10 years you have lived on St. Alphonsus Street?—A. Yes, sir; for almost 13 years.

Q. You never lived with your husband at 19 Causeway Street, Boston?—A. No, sir.

Q. You never knew of your husband living at 19 Causeway Street?—A. No, sir.

Q. Do you know where he votes?—A. He doesn't vote.

Q. You never knew him to vote from 19 Causeway Street?—A. No.

Cross-examination by Mr. CALLAHAN :

Q He doesn't vote anywhere, does he?—A. No, sir.

Q. He is not a citizen?—A. No.

Mr. CALLAHAN. That is all.

Mrs. MARGARET VALENTI, sworn.

Direct examination by Mr. O'CONNELL :

Q. Your name is what?—A. Margaret Valenti.

Q. Where do you live?—A. I live on 22 Kennison Road, Somerville.

Q. Somerville is a city outside of Boston?—A. Yes, sir.

Q. How long have you lived there, Mrs. Valenti?—A. Four years.

Q. What is your husband's name?—A. Antone Valenti.

Q. And his business?—A. His business is in the market, poultry.

Q. Have you any children?—A. No, sir.

Q. Have you ever lived elsewhere than at 22 Kennison Road, Somerville, during the last three years?—A. No; I always lived in Somerville. My husband lives in Boston part of the time.

Q. Your husband owns the house you live in?—A. No, sir.

Q. Who does?—A. Mr. Hoyt.

Q. Your husband pays the rent there, of course?—A. Yes, sir.

Q. Hires the house?—A. Yes.

Q. And pays all the bills, of course?—A. Yes.

Q. He bought all the furniture?—A. Yes, sir.

Q. And lives there when he isn't busy elsewhere?—A. When he isn't busy.

Q. He is in the poultry business, and sometimes on account of market conditions, he has to stay away from home?—A. Yes, sir.

Q. How old a man is your husband?—A. I think he is either 46 or 47.

Q. Do you know where your husband votes?—A. No, sir.

Q. Do you give Mr. Valenti's name to the assessors the 1st of April?—A. Yes, sir. He could get it from the letter box if I wouldn't give it to him.

Q. And is there a telephone in his name?—A. No.

Q. Don't have a telephone?—A. No.

Q. Did you give his name to the assessors on the 1st of April?—A. No, sir.

Q. Did your husband tell you not to?—A. No, sir.

(No cross examination.)

Mrs. ROSE SUSAN COLLIER, sworn.

Direct examination by Mr. O'CONNELL :

Q. What is your full name?—A. Rose Susan Collier.

Q. Where do you live?—A. 6 Readsdales Street, Allston.

Q. How long have you lived there?—A. Five and a half years.

Q. Do you know Mr. William J. Sheehan?—A. I know his brother. His brother used to room with me, John J. Sheehan. He is a police officer, station 4.

Q. His brother used to room with you?—A. Yes.

Q. Did William J. use to stop there?—A. He used to come occasionally, but I haven't seen him for over a year.

Q. Do you know where he used to sleep?—A. No, sir; I do not.

Q. Do you know what his business was?—A. He worked in an office somewhere.

Q. How old is he?—A. His brother took the room and always paid the rent, but he used to come in and out.

Q. By that what do you mean?—A. That his brother came occasionally to see him. He didn't sleep there.

Q. Do you know where he did sleep?—A. No, sir.

Q. Did his brother work in the city hall?—A. It is somewhere down that way, but I don't know anything about the man's business.

Q. Did you tell anybody that you knew him here a couple of weeks ago?—A. Did I tell anyone? Yes, I think I did say I knew him.

Q. Why did you say you knew him at that time and now you say you don't know him?—A. He came in to see his brother.

Q. What else did you say?—A. That is all.

Q. Did you tell the officer that he spent four or five nights a week at your house?—A. No; I did not.

Q. You didn't tell him that?—A. No.

Q. You are sure of that?—A. Yes; I don't know anything about the man.
(No cross examination.)

HENRY J. O'MEARA, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Henry J. O'Meara.

Q. And what is your business?—A. Real estate.

Q. And you are registered as having voted from the Quincy House, Boston?—A. Yes, sir.

Q. And you voted from that address?—A. Yes, sir.

Q. When did you register at the Quincy House?—A. I registered there at various times.

Q. In connection with any voting, when did you register there?—A. I think on April 1.

Q. You live, as a matter of fact, in Brookline?—A. A good part of the time; yes.

Q. With your mother and family?—A. Yes.

Q. By "a good part of the time" you mean that that is your permanent residence?—A. I travel a good deal, and I stay in town a considerable part of the time.

Q. Where is this place in Brookline?—A. 121 University Road.

Q. And that is where your mother resides?—A. Yes.

Q. And you live with your mother?—A. Yes.

Q. That is a fact?—A. Yes; a good part of the time—I travel.

Q. In the Boston Directory you have given your name as living in Brookline; your home in Brookline?—A. I wasn't aware of that fact.

(Boston Directory brought in by direction of Mr. O'Connell.)

Q. In the telephone book you are listed as in Brookline?—A. Yes.

Q. And, of course, that is your telephone?—A. Yes; I am listed in the telephone book as "house in Brookline."

Q. And the telephone number in Brookline is what?—A. 495-M.

Q. And that is the telephone at 121 University Road?—A. Yes.

Q. All your belongings, private property, and, so far as household effects are concerned, are at 121 University Road, Brookline?—A. I haven't any household effects.

Q. I mean your clothing and things of that kind?—A. I wouldn't say all. I have some at the club and some at the Quincy House.

Q. What club?—A. Boston Athletic Association.

Q. This is the first time you have ever voted in ward 5?—A. The second time. This is the second year.

Q. As a matter of fact, your voting in ward 5 was for convenience sake?—A. I am voting there because I am given to understand I had a right to, and I chose that place to vote in rather than Brookline.

Q. In other words, between Brookline and the Quincy House, you elect to register on April 1 at the Quincy House in Boston?—A. Yes, sir.

Q. Do you recall as a matter of fact you were at the Quincy House on April 1, or whether you gave your name to Mr. McCarthy to register?—A. I spend part of my time almost every day at the Quincy House.

Q. The question was whether or not you were on April 1 last at the Quincy House, or whether you gave your name to Mr. McCarthy to register?—A. I was there part of the time, to the best of my recollection.

Q. Part of the day?—A. Yes.

Q. You didn't sleep there that night?—A. I don't believe I slept anywhere until after 12 o'clock that night.

Q. And then you slept in Brookline?—A. Yes; to the best of my recollection. I am not positive of that fact, however.

Q. I will ask you to look at the Boston Directory and see if what I said is so or not.—A. That is so. I don't know who furnished the information. I didn't do so myself.

Q. You hold yourself out to the world as having your home in Brookline?—A. Through the Boston Directory; yes.

Cross-examination by Mr. CALLAHAN:

Q. Mr. O'Meara, do you know whether or not you gave that statement to those who compile that directory?—A. I don't remember of it.

Q. If you listed and registered from the Quincy House, you listed and registered of your own volition?—A. Yes, sir.

Q. Nobody in that district asked you to register and get listed or registered there?—A. It is through my own choice. Some one may have suggested it.

Q. Who is the owner or the proprietor of the Quincy House?—A. John J. and Charles J. McCarthy.

Q. You are associated with them in business?—A. Yes.

Q. Are you associated with them in the control or management of that house?—A. No, sir.

Q. You are associated with them in the management of some real estate?—A. Yes.

Q. Ownership and management?—A. Yes, sir.

Q. Mr. Lomasney never asked you to get listed or registered from that ward?—A. I never met him; never talked with him.

Q. Mr. John F. Fitzgerald never asked you to get registered from that hotel, did he?—A. I don't think so.

Q. You are certain?—A. I am certain; yes.

Redirect examination by Mr. O'CONNELL:

Q. Was the suggestion that you register there made by Mr. Joseph Kennedy, the son-in-law of Mr. John F. Fitzgerald?—A. No, sir.

Q. You know that the McCarthys, you spoke about, are very friendly with Mr. John F. Fitzgerald?—A. Yes.

Q. And did the suggestion come from them in reference to your registering?—A. I could not say that. It was a year and a half ago I registered.

Q. Do you recall who suggested to you that you register there?—A. No; I really can't recall.

Q. Was it Mr. Kennedy?—A. I know it wasn't Kennedy.

Q. You are sure of that?—A. Positive.

By Mr. CALLAHAN:

Q. As a matter of fact you were listed and registered there in 1917?—A. Yes, sir.

Mr. O'CONNELL. Mr. Boynton has sent down here a certified copy of the finding of the Ballot Law Commission, with the date on which it was received. It reads as follows: The finding of the Ballot Law Commission, and the letter accompanying same, marked "Exhibit 25," and read into the record by Mr. O'Connell, with the consent of Mr. Callahan, as follows:

THE COMMONWEALTH OF MASSACHUSETTS,

Boston, October 29, 1918.

To the Secretary of the Commonwealth:

The Ballot Law Commission having considered the objections to the nomination of John F. Fitzgerald, as a candidate for the office of Representative in Congress, with the political designation of Democratic, together with all other questions arising in relation thereto, decides that the name of the said John F. Fitzgerald shall appear upon the official ballot as a candidate for the office of Representative in Congress under the political designation of Democratic.

HY. V. CUNNINGHAM,

FRANCIS W. ESTEY,

THOMAS M. VINSON,

State Ballot Law Commission.

Received at 12.35 p. m., October 29, 1918, Secretary's Office.

THE COMMONWEALTH OF MASSACHUSETTS,

Office of the Secretary, Boston, February 26, 1918.

A true copy.

Witness the great seal of the Commonwealth.

ALBERT P. LANGTRY,

Secretary of the Commonwealth.

The three-page statement, accompanying this finding, reads as follows:

OBJECTIONS TO NOMINATION OF JOHN F. FITZGERALD AS CANDIDATE FOR CONGRESS
IN TENTH MASSACHUSETTS CONGRESSIONAL DISTRICT.

The issues heard by us were illegal voting and alleged fraud on the part of the election commissioners of the city of Boston, in conducting the recount of votes cast for this nomination in the primaries on September 24, 1918.

Because of the importance of these issues bearing upon the integrity of the election and the conduct of a public board we file this memorandum with our decision.

The fraud alleged on the part of the election commissioners consisted in the obtaining of 1,000 additional ballots from the State printer on the afternoon of the primary to provide for an anticipated shortage; and the delay in granting Mr. Tague an inspection at the recount of the unused ballots in an endeavor to discover 50 Democratic ballots claimed to have been cast and not counted in ward 5, precinct 5. In procuring these 1,000 extra ballots the election commissioners acted properly.

We examined all the records of precinct 5, ward 5, the check list, all the ballots that had been furnished by the secretary of the Commonwealth, both those cast and those remaining uncast, including the ballots of all the political parties, and found that no ballots were missing and that the number of ballots cast agreed with the number of names checked on the voting list as having voted.

Another claim of fraud was the use of an emergency ballot box in ward 5, precinct 4. It appeared that the crank of the registering ballot box could not be found at the opening of the polls at 6 a. m., whereupon the emergency ballot box was used until 8.15 a. m., when the ballots then in the emergency box were publicly, one by one, taken out and transferred to the registering ballot box. The ballots cast and not cast in this precinct were counted by us, and the names checked on the voting list agreed with the total number of ballots cast. The total of ballots cast and not cast also agreed with the number of ballots furnished by the secretary of the Commonwealth.

We find that this use of the emergency ballot box and the transfer of the ballots to the registering ballot box were not fraudulent and they in no way affected the result of the election.

In ward 5, precinct 3, the cancelling device of the registering ballot box did not print the precinct number, although the cancellation in all other respects was perfect. This could not be discovered until the polls were closed and the ballot box was opened. It was claimed that the ballots in this precinct should all be rejected because of this defect. The voters who voted in this precinct can not be disfranchised by this defect of the canceling device.

Minor irregularities on the part of some of the precinct officers were shown, but they in no way affected the result.

The rule of law governing us on this branch of the case is stated by Attorney General Pillsbury in Russell's Massachusetts Election Cases, page 52, "It is a settled rule of election law that mistake or fraud of election officers shall not invalidate a vote lawfully and regularly cast, and this is a salutary rule in the interest of the public no less than of the voter."

Three cases of illegal voting upon the name of registered civilians were proved.

It was alleged that 17 illegal votes were cast upon the names of soldiers and sailors in the United States service claimed to be absent at camps or stations so that they could not have been in Boston on the day of the primary. In 5 cases this has been proved. In the remaining 12 cases information of the whereabouts of these men on the day of the primary which we have sought by direct communication with the Army and Navy has not been received.

The law governing cases of illegal voting is stated by the supreme court of this Commonwealth in *First Paris v. Stearns*, 21 Pickering, 148, and in the contested election case *Alexander v. Doyle*, Russell's Massachusetts Election Cases, page 57; the latter case decided in 1894 since the adoption of the Australian ballot system.

The rule in these cases is that in order to set aside the election of a person it is necessary not only to prove that fraudulent votes were cast at the election but also for whom they were cast and that the number was sufficient to change the result.

Applying the above rule and assuming that all these were illegal votes and were all cast for John F. Fitzgerald, which has not been proved, the result would not be changed, for if all of these illegal and alleged illegal votes were taken from his total number he would still have a majority of the votes cast.

HY. V. CUNNINGHAM.

FRANCIS W. ESTEY.

THOMAS M. VINSON.

Mr. O'CONNELL. See if there are any other witnesses summoned.

Notary BERMAN. Any witness here in the room summoned to appear here to-day, who have not yet testified? I see none. Any witnesses here in the court room who have been summoned to appear here on any previous day who have not as yet testified? I see none.

Mr. O'CONNELL. May it please the Court, over 60 witnesses were summoned to appear here to-day. About 15 have appeared and the others have flaunted their defiance at this court. The laughter that emanates from my brother counsel, for the opposition properly reflects the attitude that these people have toward the majesty of the law and toward the dignity and importance of this hearing. Now, the grand jury convenes to-morrow morning in this room. I am going to ask you, Mr. Notary, to present to the grand jury of the Federal District Court that will come into this room to-morrow morning the names of those witnesses who have refused to come here or neglected to come here, and on whom summonses have been served in hand by the United States marshal. Many of these, if not all of them, live in ward 5 and we have every reason to believe that they are being kept from this hearing through the efforts of Martin Lomasney and his cohorts of the Hendricks Club, and that it is in keeping with all the political brigandage that has gone on throughout the year in this election. I am going to ask you in all sincerity to see that the law of this country is not to be defied by Martin Lomasney or any other man in this great city. Now, I am going to ask you to read into the record names of those who have been summoned to appear here.

Mr. CALLAHAN. I submit that these names were called and have gone into the record and their absence has been noted at least twice before.

Mr. O'CONNELL. Their absence has been noted, but it has not gone into the record, and I am going to keep this clear so that the congressional committee will understand it exactly. The notary has called the names of the witnesses and there has been no response to them and now I am going to have these names read into the record with the returns of the marshal on them.

Mr. O'CONNELL (reading).

Mrs. Henry Gray, 8 Bardwell Street, Jamaica Plain, wife of Henry Gray. Mrs. Gray was served by delivery in hand to her. Here is a true and attested copy of the subpoena signed by Thomas J. Pyne, United States marshal.

Mrs. Charles W. Murphy, 12 Wales Street, Dorchester, service to her in hand by Charles A. Bancroft, deputy United States marshal.

Mrs. Charles A. Sumleweicz, by delivery to her in hand by Thomas J. Pyne, United States marshal. Her address is 157 Highland Street, Roxbury.

Mrs. Day, 14 Wood Street, Charlestown, by delivery to her in hand by Christopher Ghiloni, deputy United States marshal.

Mrs. Newcomb, 10 Westland Avenue, suite 3, by delivery to her in hand by Charles A. Bancroft, deputy United States marshal.

Julia Dower, 43 Washington Street, Charlestown, by service to her in hand by Christopher Ghiloni, United States marshal.

Miss Brinn, 38 Theodore Street, Mattapan, by delivery to her in hand at her home.

Mrs. Fenney, 29 Elm Hill Park, Roxbury.

Notary BERMAN. She was excused for the time being.

Mrs. Elizabeth J. Sheridan, 55 Alpine Street, Roxbury, by service to her in hand at her home.

Catharine Doherty, 77 Harvard Street, Roxbury, by service to her in hand by Charles A. Farrell, deputy United States marshal.

Valentine McCormack, Central Post Office, Boston, by service to him by Charles A. Farrell.

Charles F. Rooney, 3 Bennington Street, by service in hand of a true and attested copy by Benjamin J. Scully, deputy United States marshal.

Mary E. Grossman, 1088 Bennington Street, East Boston, by service in hand to her by Benjamin J. Scully, deputy United States marshal.

Mrs. Gorman, 27 Vincent Street, Dorchester, by service to her in hand by Thomas J. Pyne, deputy United States marshal.

Mrs. McGrath, 9 or 29 Mapleton Street, Brighton, by service in hand to her by Charles A. Bancroft.

Mrs. Helena Doherty, 195 Main Street, Charlestown, by service in hand to her by John H. Baccus, deputy United States marshal.

Sarah E. Smith, 48 McLean Street, Boston, by service to her by Charles A. Bancroft.

Mrs. Kathleen Gibbons, 19 Albermahl Street, Boston, by service in hand to her.

Mrs. McCaffery, 18 Lynn Street, Boston, by service in hand to her by Charles A. Bancroft.

Mrs. White, 26 Lynde Street, Boston, by delivery to her in hand by Charles A. Bancroft.

Clerk of the Atlantic House, who came in and was sworn in, but who after being sworn in left the room and has never come back, although ordered by the court.

Crovitz, 71 Myrtle Street, Boston, by service in hand by Charles A. Bancroft.

The following were served by leaving at their last and usual place of abode in accordance with the provisions of the United States statute for the summoning of witnesses to this kind of a hearing:

Mrs. Patrick J. McNulty, 70 Jones Street, Beachmont, by leaving at her last and usual place of abode by Benjamin J. Scully.

Mrs. Elizabeth Fowler, 125 St. Botolph Street, Boston.

Mrs. Julia Havenor, service by Ghiloni.

Mrs. Cocoran, by leaving at her last and usual place of abode, 14 Auburn Street, Charlestown.

Edward F. McGinness, 3 Trenton Street, Charlestown, by leaving at his last and usual place of abode by Christopher Ghiloni.

Mrs. Frank E. Murphy, 236 Geneva Avenue, Dorchester.

Frances A. Crowley, 88 Train Street, Dorchester, at her last and usual place of abode.

Mrs. Hugh Cannon, 38 Columbia Road, Dorchester, by Charles A. Bancroft.

Mrs. J. Bonney, 16 Claxton Street, Rosindale, service by Baccus.

John F. Meehan, 1260 Dorchester Avenue, service by Baccus.

Mrs. E. R. Williams, 42 Beach Road, Winthrop, service by Baccus.

Mrs. Mary R. Stevenson, 42 Beach Street, by Baccus.

Mrs. T. J. McKeon, 38 Woodford Street, Dorchester.

Mrs. John F. Beaty (Dr. Mary Moore), 1402 Commonwealth Avenue, Allston, by leaving subpoena at her last and usual place of abode in the hands of her husband, by James A. Pyne.

Joshua Harron, 137 Bellingham Avenue, Beachmont, by service at the last and usual place of abode by calling it to the attention of his wife, by Benj. J. Scully.

Arthur W. Pierce, 43 Lynde Street, Boston, by Chas. A. Farrell.

Mrs. Hollinder, 84 Fenway Street, Boston, by leaving summons at her last and usual place of abode, by Charles A. Bancroft.

The following summonses in hand:

Mrs. John S. Moylen, 128 Walnut Avenue, Revere, by service to her in hand, by Baccus.

Mrs. James McGonigle, 93 Binney Street, by service to her in hand, by Thomas J. Pyne.

Mrs. Mary Hart, 23 Irving Street, Boston, by service to her, by Bancroft.

John J. Graham, 153 Princeton Street, East Boston, by service to him, by John H. Baccus.

Mrs. Keenan, 25 Henshaw Street, Brighton, by John H. Baccus.

Bartholemew McGown, 117 William Street, Jamaica Plain.

(Discussion between counsel as to the summoning of these witnesses and the presenting the matter of their failure to appear to the grand jury.)

Adjourned to 10 o'clock a. m., at room 443, February 27, 1919.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss.:*

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F.

Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

Boston, Mass., May 5, 1919.

DORA H. BARNES.

Personally appeared above Dora H. Barnes and made oath that statement signed was true to the best of their knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk ss.*:

I hereby certify that the foregoing in this volume, containing about 33 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919. Exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN.

Notary Public.

Boston, Mass., May 5, 1919.

Afternoon session at the office of Election Commission, City Hall, at 2 p. m., February 27, 1919. All parties being present as before, the Election Commission being represented by Commissioners Finigan and Murphy.

Mr. FINIGAN. We would like to have something in writing asking us to produce certain things. We are willing to expose anything we have if you will; please be concrete in what you want. We don't want to produce voluntarily stuff that will not be needed.

Mr. O'CONNELL. Let us start this in. Who is it agreeable to have represent the board?

Mr. FINIGAN. Anybody at all. We are all summoned here. You can put on anybody you want to. We are all subject to call.

Mr. O'CONNELL. All right. Mr. Finigan, will you take the stand?

Mr. FINIGAN, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Frederick A. Finigan.

Q. And you are one of the Election Commissioners of the city of Boston?—A. Yes, sir.

Q. Are you secretary of the board?—A. I act as such.

Q. And the other members of the board are Mr. Burlen—give me their full names, if you will.—A. Melancthon W. Burlen, Jacob Wasserman, Edward P. Murphy.

Q. Now, Mr. Finigan, has your board the votes cast at the primary election on September 24 last?—A. I believe we have.

Q. And have you the votes cast at the election on November 5, last?—A. We have.

Q. Meaning by this, the votes cast in the tenth congressional district of the city of Boston?—A. Yes, sir.

Q. Have you the list of voters checked on election day—those who voted on election day, November 5th last?—A. We have.

Mr. O'CONNELL. Now, I ask you, Mr. Notary, to require the board to produce the ballots of the elections and the records of the primary and the election of the tenth congressional district last September and November.

Notary BERMAN. Are you prepared to furnish these, Mr. Finigan?

Mr. FINIGAN. I am not.

Notary BERMAN. Why not?

Mr. FINIGAN. Owing to the fact that at the present time the safe in which these and other papers are placed for safe keeping has a double combination lock on it, one of which is in the possession of the Democratic members of the board and the other in the possession of the Republican members of the board, it is necessary for a member of each to be present to work both combinations simultaneously in order to gain access to the vault.

Notary BERMAN. Do you expect one of the Republican members or both of them to be here shortly?

Mr. FINIGAN. That I can not say. Mr. Burlen is out of town and Mr. Wasserman is under summons to room 443 of the Federal Building.

Notary BERMAN. Will you have Mr. Harrington telephone Mr. Wasserman's office?

Mr. FINIGAN. I would say, Mr. Master or Notary or in whatever capacity you are acting, that I consider that a request or a summons accompanying a request stating specifically what is desired of this board to be produced in evidence, that at least this board should be given sufficient opportunity or time to supply the goods. We are ready at any time, provided we can arrange to have them here.

Notary BERMAN. I think it is intended that you can have reasonable time to produce all documents necessary.

Mr. O'CONNELL. I talked with the chairman yesterday afternoon on this matter, and in answer to his request what we would want I gave him a list of what we wanted, and I assumed that was all that was necessary, and told him, for the convenience of the board, we would have it here.

Mr. FINNEGAN. I can say for the members of the board, we were here until twenty-five minutes past twelve ready to meet with you when we received these personal summonses. There is nothing except a miscue.

Mr. CALLAHAN. Do I understand that the summonses were issued so as to require the bringing of all books and papers and ballots and lists?

Mr. O'CONNELL. No; they were not.

Notary BERMAN. Under the law, as I understand it, it is not necessary to issue a duces tecum subpoena. I understand that we can request the production of the documents.

Mr. CALLAHAN. I suppose every court of law or every tribunal to whom the powers of the court is delegated has that same right, but they always recognize the formality and carry out the formality of summoning books and papers properly.

Mr. O'CONNELL. This is an official body, and I assumed they would be glad to have this meeting here to save the trouble of bringing great books and heavy boxes over to another building, and so I understood from the chairman.

Notary BERMAN. The only person who can find fault with the subpoena is the members of the board. If they don't find fault with the subpoena, why should anyone else?

Mr. CALLAHAN. I want it clear; of course, if it is impossible at the present time to open these vaults that it clearly is not the fault of this board.

Notary BERMAN. We have no intention to charge that.

Mr. CALLAHAN. It is the fault of the notary or counsel for Mr. Tague in summoning them improperly.

Notary BERMAN. Neither the notary nor counsel will assume the blame.

Mr. O'CONNELL. See the blank look come over his face when he makes that charge.

Mr. CALLAHAN. I simply want that for the record. The burden has been shifted so frequently in this case.

Mr. O'CONNELL. What time do you expect Mr. Burren back?

Mr. HARRINGTON. He said he would be here all day.

Mr. FINIGAN. He said he would be here to-morrow noon.

Mr. O'CONNELL. To me he said that he would be here at 2 o'clock.

Mr. FINIGAN. Might I ask you this question. What objection have you to giving us this form of summons similar to the last investigation?

Mr. O'CONNELL. Simply because it is not necessary.

Mr. FINIGAN. That is the one thing that we can say that the board has been trying to make clear it would like to have.

Mr. O'CONNELL. If it had only notified me.

Mr. FINNEGAN. The first thing the board knew of any proceedings to be here was at five minutes past 10 last night, and that is hardly time to arrange.

Mr. O'CONNELL. I don't know what time you would need to bring those out of the vault and have them marked.

Notary MANCOVITZ. I might call your attention to the statute in which it is stated, the law is as follows: Each witness shall be served with a subpoena by a copy delivered to or left at his usual place of abode at least five days before the day on which the attendance of the witness is required. It is not a question of being required. The law says you must give them five days, and you can not expect them to bring documents and papers without that.

Mr. FINNEGAN. We don't care to quibble on that matter. We are ready to do this thing as soon as possible. We are ready to expedite matters as much as we can, but at the same time we would like to have some form of request which

would enter into the records of this board, and the personal summons to a commissioner such as I have received does not in any way bind the board nor become a part of the record. I am taking this stand voluntarily. As a member of the commission, I am not bound in any way.

Mr. CALLAHAN. Of course, we have waived none of the formalities of this statute.

Mr. O'CONNELL. Mr. Finnegan, I note that Mr. Wasserman, one of the Republican commissioners, has arrived. Will you ask him to go with you to the vault?

Mr. FINNEGAN. Not until, Mr. O'Connell, I receive a proper summons, as I conceive it, requesting this board to act in that capacity.

Mr. O'CONNELL. Well then, I understand that you refuse now, although the Republican commissioner is present—you refuse to go to the vault and produce on the request of the notary the documents and papers that I have asked for that are in your possession?

Mr. FINNEGAN. It would not be possible for me to do it, because I could only open my section of the vault. I don't know as my brother commissioner would be willing to open his end.

Mr. O'CONNELL. Will you confer with your brother commissioner and see if he is willing to do his end?

Mr. FINNEGAN. I surely will. Is Murphy along? Come on, Jack. (Mr. Murphy and Mr. Wasserman step with Mr. Finnegan into the private office, and Mr. Finnegan returns.) If you will serve a summons setting up specifically what papers you want down there, my brother commissioners and I will open the vault, and we will accept service right away.

Mr. O'CONNELL. In order that the record may be clear, I want to state: For the convenience of the election commission, I had a telephone communication last night from the chairman who was here in the presence of the board, and he said that the board would undoubtedly be glad to cooperate with us for the purpose of avoiding any inconvenience and in having the hearing held over at the Federal building, and at that time I told him what we want. Now, I have not any objection at all at the present time to having the notary write out a summons, and ask the notary to write out the summons.

Mr. WASSERMAN. The summons will call for what papers you want.

Mr. O'CONNELL. I don't think we have to do it, Mr. Wasserman. The law is clear. Section 123 says, the notary has power to make you produce these things. Your custom may be along other lines, but the United States law says this can be done, inasmuch as they are here in the building under your direction, in your control. All you are asked to do is produce them by the notary.

Mr. FINNEGAN. The trouble is we are not asked to produce anything. We are asking you to inform us in writing what papers you want.

Mr. HARRINGTON. Mr. O'Connell made the request to the notary to produce such things, and the notary requested you.

Notary BERMAN. I asked Mr. Finnegan if he was willing to produce them.

Mr. CALLAHAN. I object to the whole proceeding without—certain it is that the attorneys for Mr. Tague have not observed the formalities in summoning witnesses, and if you summon certain witnesses at certain places you don't expect them to bring papers.

Mr. O'CONNELL. We did not assume they would bring anything. The papers are here. We are in the room with them.

Mr. CALLAHAN. All right. And the commissioner has stated that he will accept a proper summons. He is entirely right and you are wrong, as you have been all through.

Mr. O'CONNELL. This is only one of the many efforts to frustrate this hearing.

Mr. FINNEGAN. We have the ballots for all over the city. Now, you are not interested in the ballots in any ward except in the tenth district.

Notary BERMAN. You are ordered and requested to produce the ballots cast in the primary election September 24 in the tenth congressional district. You are also ordered and requested to produce the ballots cast in the tenth congressional district on November 5, together with all official check lists and other papers and memoranda that in any way affect them.

Mr. FINNEGAN. If you will have that written out we will produce the papers you want. That is all we want. We want something in our record.

Notary BERMAN. To save time, why can't we assume it is here?

Mr. FINNEGAN. We are not assuming anything. We want to help everyone.

(The commission was thereupon served with a copy of the following summons to each member:)

" BOSTON, MASS., *February 27, 1919.*

*"To M. W. Burlen, F. A. Finnegan, Jacob Wasserman, and Edward P. Murphy,
election commissioners, city of Boston:*

"You are commanded, all and singular, business and excuses being laid aside, to appear and attend before the undersigned, a notary public in and for the Commonwealth of Massachusetts, sitting in the matter of Peter F. Tague, contesting the election of John F. Fitzgerald to a seat in the Sixty-sixth Congress of the United States, in virtue of the authority conferred upon me, there and then to testify in the above matter on the part of the contestant, and that you then and there bring with you and produce all the ballots now in your custody which were cast at the primary election held on the 24th of September, 1918, and at the general election held on the 5th day of November in the following wards of the city of Boston, namely, wards 1, 2, 3, 4, 5, and 6.

"You are also requested to produce at said hearing all tally sheets, voting lists, papers, and check lists, and all other papers relating to said primary and said election, and to the recounts of said votes held by your board. For failing to obey this subpoena you will be liable to a punishment prescribed by the Revised Statutes of the United States of America.

“ Witness my signature and official seal as notary public in and for the Commonwealth of Massachusetts, at Boston, in said Commonwealth, this 27th day of February, 1919.

“(Signed) ABRAHAM C. BERMAN,
“Notary Public.”

[Notarial seal.]

Q. Now, Mr. Finnegan, will you please produce the ballots cast at the primary on September 24, 1918; cast in wards 5 and 6?—A. Do you want them all to go on with? How long are you going to be here?

Mr. O'CONNELL. Before we go into that let us see if we can not agree. What would be the most convenient way?

Mr. FINNEGAN. If you would give me some idea as to how long you are going to sit here this evening or this afternoon, I would suggest how many you may be able to look into. It depends on how fast you are going.

Mr. O'CONNELL. I think we had better bring them in at once, first, and have them impounded by the notary.

Mr. CALLAHAN. What do you mean by "impounded by the notary"? You don't assert the notary has any authority to take these votes out of the custody of the commission and commissioners?

Mr. O'CONNELL. I said impound them. In order for the congressional committee to avail itself of this evidence they have got to be first impounded by the notary. He has the right to hold custody of them, but I think, under the circumstances, the board would naturally insist upon keeping the custody themselves.

Mr. CALLAHAN. Of course they would

Mr. O'CONNELL. And with that in mind, it would seem as though we might first have him impound them, and after they are impounded, marked, and designated, then they can remain in the custoday of the board, if it is the board's desire.

Mr. FINNEGAN. Why can't they be marked and identified as they come up?

Mr. O'CONNELL. That can be done; all right.

Mr. FINNEGAN. What is the first thing you want? One of these boxes can be opened at a time. Of course, you realize these are all in boxes—possible 80 boxes. Don't like to bring them all at a time.

Mr. O'CONNELL. Suppose you bring them in a ward at a time.

Mr. FINNEGAN. What ward do you want?

Mr. O'CONNELL. Ward 5.

(Recess while ballots for ward 5 are produced.)

Notary BERMAN. Will you proceed, Mr. O'Connell?

Q. Mr. Finnegan, what have you there?—A. The ballots used in ward 5 on primary day last, and the records, books—clerk's and record books receipting for the various ballots from those receiving them in the various precincts of said ward, and also the books and the keys to the ballot boxes and also the official return and the voting lists.

Q. Will you pick out the original tally sheets of ward 5, precinct 1?—A. The original tally sheets?

Q. Yes.—A. Let me note that these have all been opened and resealed by the ballot law commission under their signature.

Mr. CALLAHAN. I think you should show that, unless they agree to it.

Mr. HARRINGTON. We don't agree to anything, sir.

Notary BERMAN. Isn't it better to make a note that a seal appears on it and who signs it? I think you had better keep what the seal is on the record.

Mr. FINNEGAN. "Boston, October 11, 1918. This box was this day opened by the board of election commissioners sitting according to law and the ballots contained therein again sealed in the presence of the ballot law commission and sealed in their presence. Thomas M. Vinson." There is some reading matter here, if you want it. "Were counted by said board and immediately afterwards all said ballots were placed in said box and said box was sealed. Attest: M. W. Burlen, Edward P. Murphy, Frederick A. Finigan, Jacob Wasserman, election commissioners."

Q. Can you tell, before opening that box, how many times it has been opened from any of those papers it has on it?—A. No.

Q. It has been opened. How many times have seals been put on that box, as near as you can ascertain?—A. Three times. It was sealed originally by the tellers before being sent here by a clerk or warden. It was sealed by the teller and sealed by the ballot law commission.

Q. Can you tell how many times it has been opened by the ballot law commission?—A. No.

Q. There is no way of knowing from the number of papers stuck on the back of the box in the nature of seals as to the way in which it was opened or the number of times, is there?—A. You can readily see how many times it has been resealed.

Q. My question was, There is nothing there that indicates the number of times nor the way it was opened from any numbering or marking on it?—A. Yes.

Q. Is there any numbering on it?—A. No.

Q. There is not any serial numbers on it?—A. No. There is a difference in the seals.

Q. Is there a difference in the seals of the election commissioners?—A. Yes.

Q. Will you point them out?—A. This one here is the original seal put on by the election officers. These are gummed tags sent out to the election officers.

Q. Are they numbered by location or ward?

Q. Is that just a common seal that is sent to every election booth in the city?—A. Yes.

Q. Are these sent out in any particular numbers?—A. Just the required number to each box.

Q. Is there any record kept of the number of seals that is sent out?—A. Yes.

Q. Have you the record of the number of seals sent out to ward 5, precinct 1?—A. No; I have not.

Q. Do you know where any such record is kept?—A. In the custody, I suppose, of the agent who has charge of these seals to send them out.

Q. Who is it, please?—A. Mr. Farnham.

Mr. O'CONNELL. Now, I offer it at the present time and ask to have it marked as an exhibit.

Q. Will you open that, please? [Mr. Finnegan opens box.] What does that box contain?—A. It contains a canvas envelope containing the Republican ballots of ward 5, precinct 1; a canvas envelope containing the Democratic ballots of ward 5, precinct 1; a manila-paper envelope containing the Socialist ballots cast.

Q. Now, I would like—will you open the envelope containing the Democratic ballots? Before you open that, will you tell us what the number of seals on the outside of it is—how many times that bears evidence of having been opened before?—A. It only bears evidence of having been opened once.

Q. Which seal is it that bears evidence of having been opened once?—A. Which seal?

Q. Yes.—A. The fact that the seals on the ends of here [designating the tapes].

Q. Doesn't this mark here [pointing to the seal on the back] indicate that it was opened?—A. I should say that that was put on there by some one for identification, possibly, before the ballot law commission.

Q. Doesn't that bear indication of having been put on there and having been opened?—A. I should not want to say so, not knowing what transpired before the ballot law commission with these ballots.

Q. Does that indicate it has been stuck on there?—A. I don't know. That indicates it has been stuck on there; yes.

Q. And there is no evidence as to by whom it was stuck?—A. No.

Mr. CALLAHAN. I would like to call attention to the date on it.

Mr. O'CONNELL. There is a date—September 30.

Q. Will you turn it over and see what other marks there may be, so I may look at them? There is an evidence that there are two seals on that.—A. Each, I presume, were a part of this. That is attached to the end of that tape, the original seal.

Q. Will you see if that goes around and fits it?—A. It would not be apt to, the way it is strapped, because it is not strapped properly, but it was when it was sealed.

Q. There is a seal on the end of the strap, isn't there?—A. A part of a seal.

Q. And that part—and what about the other seal?—A. There are two straps for the case.

Q. As they lay to-day, it would not indicate they were on it unless they were at some other time, would it?—A. That seal was not used at the last sticking.

Q. Where are the seals that were used at the last sticking?—A. I could not say—one or the other.

Q. Then, there is no indication to show that it was——A. There is no indication to show that the ballot law commission sealed the envelope, unless this here is evidence of it, which I am not in a position to state.

Mr. HARRINGTON. That is the date of the recount.

Q. With those facts noted, will you kindly open it? [Witness opens envelope.] What does that pouch contain, Mr. Finnegan?—A. It contains, one, two, three, four broken manila envelopes containing ballots.

Q. And what else?—A. That is all.

Q. What is that you have just in your hand?—A. It applies to any one of these packages.

Q. Will you open one package and tell us what the package contains?—A. Any package in particular?

Q. One.—A. A manila envelope opened, and pasted on one end a description: "Block No. 1, ballots 50." Marked in blue pencil "51" in the upper left-hand corner, containing ballots and a tally sheet marked "Block No. 1, ward 5, precinct 1. September 24, 1918."

Q. What tally sheet is that?—A. From the evidence here, I should say it was ward 5, precinct 1.

Q. Is that the tally sheet used on the night of the counting of the ballots?—A. It being found there, I presume it is.

Q. Where is the tally sheet that was used at the recount? Have you them here?—A. We have them out there.

Q. Out where?—A. In the office, as a part of our records.

Q. Are the recount sheets kept with the ballots?—A. No.

Q. Who keeps them?—A. They are kept as a part of the office records.

Q. Out here on the office floor?—A. Yes.

Q. Whereabout?—A. In behind the rail.

Q. Generally accessible in the office?—A. To the office force or commissioners, or parties seeking information from them.

Q. While we are waiting for them, let me ask you, is there any other paper in that envelope?—A. You mean, besides the tally sheet and the ballots?

Q. Yes.—A. I could not say.

Q. Will you look?—A. From a superficial glance, I should say no. There may be some other than the ballots.

Q. What have you there, Mr. Finnegan?—A. I have the block sheets and total tally sheet of the precinct for ward 5, precinct 1, on the recount.

Mr. O'CONNELL. Now, I would like to have these papers marked for identification.

Notary BERMAN. Which papers?

Mr. O'CONNELL. These ballots.

Mr. CALLAHAN. Is there any dispute about the count now?

Mr. O'CONNELL. Oh, yes.

Mr. CALLAHAN. I thought you had got all over that?

Mr. O'CONNELL. Oh, no; indeed, no.

Notary BERMAN. What form of marking do you wish?

Mr. O'CONNELL. I would like to have them marked so they may be available to the congressional committee for their inspection.

Mr. CALLAHAN. At this time, I would like to call to the attention of the notary, as soon as the commissioner gets through testifying on these ballots, I support it is necessary for him to deposit the ballot and seal these boxes again; isn't that so, Mr. Commissioner?

Mr. FINNEGAN. That is what has to be done.

Mr. CALLAHAN. I don't know that the notary has power or authority to compel the commissioners to do otherwise.

Notary BERMAN. You want these ballots marked for identification, Mr. O'Connell, and you want these tally sheets marked for identification?

Mr. O'CONNELL. I do.

Notary BERMAN. In order later, if necessary, to submit them to the committee in Congress?

Mr. O'CONNELL. Yes.

Notary BERMAN. They may be marked for identification.

Mr. CALLAHAN. Do I understand that it is the intention of this contestant in this case to take all these ballots to Washington?

Mr. O'CONNELL. It is.

Mr. CALLAHAN. Don't you know that under the law you have no right to mark the ballots?

Mr. O'CONNELL. I understand that there is no desire for marking the ballots so that they may be in any way invalidated, but there is no law about marking evidence that is submitted. Now, we are submitting these as evidence. Of course, that is an exhibit, and, of course, as an exhibit, must be marked or identified in some way so that it can be identified.

Notary MANCOVITZ. Why not put the ballots back in the box, seal the box, and mark the box with the stenographer's stamp, and, after placing the ballots back in the box, mark the box for identification?

Mr. O'CONNELL. That is all right.

Mr. CALLAHAN. That is agreeable to me.

Mr. FINNEGAN. I will say, while I do not wish to interfere in any way with these proceedings that these ballots as they are to-day are in the custody of the election commission and on impeaching the election commission there will be no marking on them. These boxes will be sealed when you are through looking at them and identified as ward 5, precinct 1, with the election commissioners' seals on them because there is nothing to prevent the other side when they start their hearing asking to have these boxes opened. If this commission is not sufficiently well appointed to be intrusted with them——

Q. Why are you so interested in the other side?—A. I am interested in nothing except the ballots and my trust.

Notary BERMAN. Regardless of what Mr. Finnegan may say about the papers in his possession, or may say for the other side, but if you, Mr. O'Connell, putting in your case as you are now, desire any papers in the possession of the election commission of the city of Boston to be marked for identification, in so far as I have any power to order them marked, I shall do so.

Mr. FINNEGAN. I am satisfied to do just as you dictate, Mr. Berman, but I waive none of my rights.

Q. Didn't you mark some of those ballots yourself?—A. I did; yes.

Q. What objection do you have to making them again?

Mr. CALLAHAN. I think they may be marked either with a paper fastener or with a clip.

Mr. O'CONNELL. We will leave that with Mr. Finnegan.

Mr. FINNEGAN. I marked them as an exhibit. If you wish me to mark them, I will mark them, but you shall not mark them.

Mr. CALLAHAN. There is no possible question about having him mark them.

Mr. FINNEGAN. There is not a possible chance of these ballots being tampered with between now and Congress getting hold of them and the time there was from the time they were cast in the primary.

Notary BERMAN. I agree absolutely. I have all confidence in the honesty and integrity of the election commission.

Q. Of course, Mr. Finigan, you admit you are honest, and the mere fact you admit you are going to take care of the ballots—A. Put this in the record. I like it.

Q. Does not indicate anything. We want these ballots marked so we will be sure and Congress will be sure they have not been reached and they have not been touched.—A. Submit any suggestion as to how you wish to mark them, and if it is satisfactory to the commission here I will do it.

Notary BERMAN. I don't believe any marking should be made on these ballots. Any marking you may make should be on the back of the ballots.

Q. Let me ask this. Was anything done by the commission to put aside the ballots that were marked as exhibits at that recount?—A. I don't quite understand you.

Q. You will recall that at the recount, for your convenience and for the convenience of the parties, certain ballots were marked as exhibits. That is true, isn't it?—A. Yes.

Q. Were these ballots put back into the various blocks in any way so that they may be easily obtained now, or are they mixed up with all the other ballots?—A. The ballots were put into all the other precincts and blocks from which they were taken.

Q. And not put away in any separate way or compartment from them?—A. The day of the primary the ballot was marked the precinct from which it came in blue pencil. On election day there was a tag attached.

Q. Has the board any record as to ballots that were marked as exhibits at that time?—A. They have not that I know of.

Q. Do you, as secretary of the board, keep any record of the ballots that were marked as exhibits?—A. No; I read them.

Q. And the board did not make any record of the number of ballots that were marked, did they?—A. Not that I know of. They were not segregated as between straight ballots and exhibits or ballots counted and ballots not counted.

Q. They are all mixed up, are they?—A. Yes.

Notary BERMAN. Can you pick out one ballot and show the marking on the back?

Q. Now, Mr. Finigan, I think I can follow this course; let us go through each one of these blocks and pick out each one of the ballots which was marked at the recount, and then I will have them marked and indorsed.

Mr. CALLAHAN. I submit if they are going to be marked, as you call it, simply an identifying tag or paper attached.

Mr. HARRINGTON. Let the election commissioners do it themselves. We simply want to identify them.

Answer. You simply question now these ballots that are at the present time identified here by marks upon the back?

Mr. HARRINGTON. That is all.

A. I should say there are none in block 4, ward 5, precinct 1.

Q. Now, the tally sheet. That would be better.—A. Block 4, number of ballot 40, containing a tally sheet, ward 5, block No. 4, precinct 1. These are two identified ballots at the time of the recount.

Mr. HARRINGTON. Those are what we want.

A. I am trying to see if there are any more. I should say there are two there.

Mr. HARRINGTON. Will you kindly read them?

A. What do you mean—read them?

Q. What are the marks on them?—A. They are identified as Exhibit No. 7 and Exhibit No. 8.

Q. And what are the marks?—A. Exhibit No. 7 F. A. F. and counted for Fitzgerald and Exhibit No. 8 F. A. F. not counted for Tague or Fitzgerald.

Q. That is all right. Now, go into other boxes——

Mr. CALLAHAN. Will these be entered by calling them Exhibit 8 and Exhibit 7?

Notary BERMAN. When?

Mr. O'CONNELL. Why not identify them as exhibits?

Mr. FINIGAN. I suppose these could be identified by saying it was block No. 4, number of ballots cast 40, containing two in dispute, Exhibits 7 and 8.

Q. Isn't there some way these can be put aside so they can be easily available?—A. They can be easily available if you will give us 24 hours.

Notary BERMAN. Keep then on top of the block.

Mr. O'CONNELL. I am introducing these in evidence, of course, and it is understood they are marked as exhibits in accordance with the markings already on them.

A. An envelope, block No. 2, number of ballots 50, tally sheet marked ward 5, precinct 1, block 2. That is all contained in that envelope. It contains no exhibits.

Q. In the last three blocks, or four blocks, that you have examined there are a great number of ballots that have stickers placed on them with four or five names voted for on the State ticket?—A. I should say so. I was not taking any particular notice.

Q. Will you point to that again? There is one right there under your hand, for instance, right there.—A. One, two, three, four, five, six—yes, I should say several of these contained in tally sheet of ward 5, block 3, precinct 1, and also total tally sheet of ward 5, precinct 1.

Q. Now, will you let us look at the——(question struck out.)

Mr. O'CONNELL. Now, I would like to introduce this at this time, Mr. Notary: Ballots cast at ward 5, precinct 1, and ask to have them marked, together with the recount sheet in connection with the same.

Mr. CALLAHAN. Do you mean all the ballots, Mr. O'Connell?

Mr. O'CONNELL. That is all the way you can. I don't know how else I can get at them.

Notary BERMAN. I think you agreed to mark one.

Mr. O'CONNELL. How can we get at them?

Notary BERMAN. Mr. Finigan has agreed, whenever we mark the ballots in question, if you give him reasonable notice, he will produce them. I now identify two ballots on block 4.

Mr. FINIGAN. The block is identified, box and precinct and envelope.

Notary BERMAN. It is an easy matter to get at them.

Mr. FINIGAN. This is an office record.

Mr. O'CONNELL. I want to be able to get at these exhibits that are contained in that box. Now, the only way I can get at these exhibits in that box is to have that box marked as an exhibit.

Notary BERMAN. All right, then, mark the box as an exhibit. Mark the boxes containing the exhibits.

Mr. CALLAHAN. I move again the box be identified without marking it.

Mr. O'CONNELL. All right, then, have it marked. We are introducing the exhibits contained in ward 5, precinct 1, and I ask the notary to order them impounded in such form as he will direct that is best to have them forwarded.

Notary BERMAN. If I have the right to order them impounded, I now order them to be impounded and left in the custody of the election commissioners to be forwarded to Congress as may be provided by law.

Mr. HARRINGTON. That is an office copy, you say?

Mr. FINIGAN. This is a record.

Q. Then I shall want that.—A. You can not have that.

Q. An attested copy of that.

Mr. CALLAHAN. You can summons him to come——

Q. Mark that as an exhibit, whatever you do.—A. You know, Joe, a public record can not be marked as an exhibit.

Q. You have marked these ballots.—A. That is not a public record.

Mr. HARRINGTON. We ask, Mr. Commissioner, an attested copy of that recount, precinct 1, ward 5, recount.

Mr. FINIGAN. All right.

Q. In the case of precinct 2——

Notary BERMAN. I am willing to suit the convenience of the commissioners as to proceeding with this hearing this evening or this afternoon. If they are willing to stay, I will stay. Hearing is now adjourned until 9 o'clock tomorrow morning.

FEBRUARY 28, 1919—9 A. M.

Hearing resumed at the office of the election commissioners of the city of Boston. City Hall, Boston, Mass.

Counsel present as before.

Boxes containing the ballots from wards 5 and 6 produced by the election commissioners.

Mr. HARRINGTON. Take out the ballots marked as exhibits at the time of the recount.

(The seals are broken by Mr. Finigan.)

Mr. CALLAHAN. In view of the fact that you made specific charges and specifications of alleged fraud on the part of the election commissioners, I think this ought to be done with great care.

Mr. HARRINGTON. You may call off what kind of seals they are and how fixed, etc.

Mr. FINIGAN. Box shows that it was sealed after being reopened by the ballot law commission, which seal I now break. Ward 5, precinct 2, sealed with the blank seal containing the imprint of the seal of the city of Boston. This box contains a canvas envelope containing the Democratic ballots, a canvas envelope containing the Republican ballots, and another envelope containing the Socialists' ballots.

Mr. HARRINGTON. Take the Democratic envelope; will you open that?

Mr. FINIGAN. This envelope was sealed, which seal I now break. This envelope was double sealed with straps and flap, also tied.

Mr. HARRINGTON. Take block 1 and go right through those blocks, Mr. Commissioner, and take out the disputed ballots which were marked.

Mr. FINIGAN. Block No 1 contains 50 ballots. It contains 4 ballots marked as exhibits—Exhibits 14. There are 2 exhibits 14, there are 3 exhibits 14, and 4 exhibits 14.

Mr. HARRINGTON. Any other distinguishing marks on them?

Mr. FINIGAN. "Exhibit 14 not counted, not counted, not counted, for Fitzgerald or Tague."

Mr. HARRINGTON. And this is block 1?

Mr. FINIGAN. This is block 1, number of ballots 5, ward 5, precinct 2.

Notary BERMAN. Any particular reason why those four ballots should be on top of the envelop?

Mr. FINIGAN. At the time these were marked as exhibits they were held up until the board determined the question of the ballot.

Mr. HARRINGTON. And then they were put in at the top of the block?

Mr. FINIGAN. Just as we are doing now; yes.

Notary BERMAN. Is that all there are?

Mr. FINIGAN. That is all there are in that envelope.

Mr. HARRINGTON. Take block No. 2, Mr. Commissioner. In blocks 2 and 3, Mr. Commissioner, there are none?

Mr. FINIGAN. There are none.

Mr. HARRINGTON. Take blocks 4 and 5. In blocks 4 and 5, Mr. Commissioner, there are none?

Mr. FINIGAN. So far as we can see there are no exhibits in blocks 4 or 5.

Ward 5, precinct 3.

Mr. FINIGAN. This box is sealed in the same manner as the preceding one, which seal I now break. It contains 2 canvas and one manila envelopes, one containing the Democratic ballots, one containing the Republican ballots, and one the Socialist ballots.

Mr. HARRINGTON. Open the Democratic ballots.

Mr. FINIGAN. Block 1 contains 50 ballots, ward 5, precinct 3.

Exhibit 22, not counted for Fitzgerald or Tague.

Exhibit 26, not counted for Fitzgerald or Tague.

Exhibit 27, not counted for Fitzgerald or Tague.

Exhibit 33, not counted for Fitzgerald or Tague.

Exhibit 35, not counted for Fitzgerald or Tague.

Exhibit 55, not counted for Fitzgerald or Tague.

Exhibit 56, is the same.

Exhibit 65, counted for Tague.

Exhibit 63, counted for Tague.

Exhibit 45, counted for Tague.

Exhibit 42, counted for Tague.

Exhibit 41, counted for Tague.

Exhibit 36, counted for Tague.

Exhibit 28, counted for Tague.

Exhibit 25, counted for Tague.

Exhibit 71, counted for Fitzgerald.

Exhibit 70, counted for Fitzgerald.

Exhibit 69, counted for Fitzgerald.

Exhibit 68, counted for Fitzgerald.

Exhibit 67, counted for Fitzgerald.

Exhibit 66, counted for Fitzgerald.

Exhibit 64, counted for Fitzgerald.

Exhibit 62, counted for Fitzgerald.

Exhibit 61, counted for Fitzgerald.

Exhibit 60, counted for Fitzgerald.

Exhibit 59, counted for Fitzgerald.

Exhibit 58, counted for Fitzgerald.

Exhibit 57, counted for Fitzgerald.

Exhibit 54, counted for Fitzgerald.

Exhibit 53, counted for Fitzgerald.

Exhibit 52, counted for Fitzgerald.

Exhibit 51, counted for Fitzgerald.

Exhibit 50, counted for Fitzgerald.

Exhibit 49, counted for Fitzgerald.
 Exhibit 48, counted for Fitzgerald.
 Exhibit 47, counted for Fitzgerald.
 Exhibit 46, counted for Fitzgerald.
 Exhibit 44, counted for Fitzgerald.
 Exhibit 43, counted for Fitzgerald.
 Exhibit 40, counted for Fitzgerald.
 Exhibit 39, counted for Fitzgerald.
 Exhibit 38, counted for Fitzgerald.
 Exhibit 37, counted for Fitzgerald.
 Exhibit 34, counted for Fitzgerald.
 Exhibit 32, counted for Fitzgerald.
 Exhibit 31, counted for Fitzgerald.
 Exhibit 30, counted for Fitzgerald.
 Exhibit 29, counted for Fitzgerald.
 Exhibit 24, counted for Fitzgerald.
 Exhibit 21½, counted for Fitzgerald.

Ward 5, precinct 3, block No. 2, contains Exhibit 78 for Fitzgerald, and Exhibit 77 for Fitzgerald.

Ward 5, precinct 3, block No. 3, contains none.

Ward 5, precinct 3, block No. 4, contains none.

Ward 5, precinct 3, block No. 5, contains no exhibits.

Ward 5, precinct 4. Sealed same as the previous boxes. (Seals broken by Mr. Finigan.)

Mr. FINIGAN. This box, ward 5, precinct 4, contains two canvas envelopes, one containing the Republican ballots, one the Democratic ballots.

Block No. 1, contains one exhibit 86. Further inscription, "not counted."

Block No. 4 contains two exhibits, Exhibit 100, and further inscribed "not counted," and Exhibit 99, further inscribed "counted for Fitzgerald."

Block No. 3, contains 50 ballots and no exhibits.

Block No. 2, contains 1 ballot marked as Exhibit 94 and further inscribed "counted for Fitzgerald."

Ward 5, precinct 5. Sealed as the previous boxes and seal broken by Mr. Finigan.

This examination is being conducted in the absence of Mr. Callahan, with his consent.

Mr. FINIGAN. This box contains three canvas envelopes and a number of sample ballots. One of the envelopes contains the Socialist ballots, one the Republican ballots, and one the Democratic ballots.

Block No. 3, number of ballots, 50; containing 1 ballot marked as "Exhibit 111" and further inscribed "counted for Tague."

Block No. 2, contains one Exhibit 107, "not counted."

Block No. 5, contains no exhibits.

Block No. 4, contains no exhibits.

Block No. 6, contains no exhibits.

Block No. 1 contains no exhibits.

Ward 5, precinct 6. Box sealed as the preceding boxes and opened by Commissioner Finigan.

Mr. FINIGAN. This box contains three canvas envelopes, one containing the Socialist, one the Republican, and one the Democratic ballots.

Block No. 1, contains none.

Block No. 2, contains none.

Block No. 4, contains none.

Block No. 3, contains none.

Block No. 5, contains none.

Notary BERMAN. In order that there may be no misunderstanding, all these ballot boxes that are being opened and resealed containing ballots that are marked as exhibits, I understand the board has been ready to reopen the ballots and furnish the committee in Washington with these ballots at reasonable notice, such as 24 hours or so, that is so, isn't it?

Mr. FINIGAN. Surely.

Ward 5, precinct 7. Sealed and reopened as the previous boxes.

Mr. FINIGAN. This box contains three canvas envelopes, one containing the Socialists' ballots, one the Republican ballots, and one the Democratic ballots.

Block No. 2 contains no exhibits.

Block No. 1 contains no exhibits.

Block No. 3 contains no exhibits.

Block No. 4 contains no exhibits.

Block No. 5 contains no exhibits.

Block No. 6 contains no exhibits.

Block No. 7 contains no exhibits.

Ward 5, precinct 8. Sealed and opened in the same manner as the preceding boxes. Sealed by the Ballot Law Commission.

Mr. FINIGAN. This box contains two canvas and one manila envelopes. The manila envelope contains the Socialists' ballots, one canvas envelope contains the Republican ballots, and the other one the Democratic ballots.

Block No. 2 contains one ballot marked as Exhibit 118, and further inscribed "counted for Fitzgerald."

Block No. 1 contains no exhibits.

Block No. 4 contains three ballots marked Exhibits 114, 115, and 116. Exhibit 115 is further inscribed, "counted for Fitzgerald." Exhibit 114 is further inscribed, "counted for Fitzgerald"; and Exhibit 116 is further inscribed, "counted for Fitzgerald."

Block No. 3 contains one ballot marked Exhibit 117 and further inscribed, "counted for Fitzgerald."

Block No. 5 contains no exhibits.

Ward 5, precinct 9. Sealed under the same conditions as those previous by the Ballot Law Commission. Opened by the Election Commissioner.

Mr. FINIGAN. It contains canvas envelope containing the Republican ballots; a canvas envelope containing the Democratic ballots; and a manila envelope containing the Socialists' ballots.

Block No. 1 contains a ballot marked Exhibit 149, and further inscribed, "counted for Tague."

Exhibit 148 and further inscribed, "counted for Fitzgerald."

Exhibit 150 and further inscribed, "counted for Fitzgerald."

Block No. 2 contains ballots marked as Exhibit 142 and further inscribed, "counted for Fitzgerald."

Exhibit 147 and further inscribed, "voted for Fitzgerald."

Exhibit 146, "counted for Fitzgerald."

Exhibit 145, "counted for Fitzgerald."

Exhibit 114, "counted for Fitzgerald."

Exhibit 143, "counted for Fitzgerald."

Block No. 4 contains a ballot marked as Exhibit 133 and further inscribed, "counted for Fitzgerald."

Exhibit 132, "counted for Tague."

Exhibit 128, "counted for Fitzgerald."

Exhibit 129, "counted for Fitzgerald."

Exhibit 130, "counted for Fitzgerald."

Exhibit 131, "counted for Fitzgerald."

Block No. 3 contains ballots marked as exhibits:

Exhibit 141, "counted for Fitzgerald."

Exhibit 140, "counted for Fitzgerald."

Exhibit 139, "counted for Fitzgerald."

Exhibit 138, "counted for Fitzgerald."

Exhibit 136, "counted for Fitzgerald."

Exhibit 135, "counted for Fitzgerald."

Exhibit 134, "counted for Fitzgerald."

Block No. 5 contains ballots marked as exhibits.

Exhibit 124, marked "counted for Fitzgerald."

Exhibit 125, "counted for Fitzgerald."

Exhibit 126, "counted for Fitzgerald."

Exhibit 127, "counted for Fitzgerald."

Ward 5, precinct 10. Box opened in the same manner as the previous ones by Commissioner Finigan.

Mr. FINIGAN. Box contains signature book of the officers, two manila envelopes, empty; one manila envelope containing the Socialists' ballots, three blank tally sheets, canvas envelope containing the Republican ballots, and one canvas envelope containing the Democratic ballots.

Block No. 2 contains two ballots marked as Exhibit 161 and further inscribed, "counted for Fitzgerald," and Exhibit 160, further inscribed, "counted for Fitzgerald."

Block No. 1 contains ballots marked Exhibit 162, "counted for Fitzgerald," and Exhibit 163, "counted for Fitzgerald."

Block No. 4 contains no exhibits.

Block No. 3 contains a ballot marked Exhibit 158, "counted for Tague," and one marked 159, "counted for Fitzgerald."

Ward 5, precinct 11: Sealed and opened under conditions similar to those preceding.

Mr. FINIGAN. It contains a canvas envelope containing the Republican ballots, a manila envelope containing the Socialist ballots, and a canvas envelope containing the Democratic ballots.

Block No. 2 contains a ballot marked as "Exhibit 154" and further inscribed "Counted for Tague" and a ballot marked "Exhibit 150" and further inscribed "Counted for Fitzgerald."

Block No. 1 contains a ballot marked "Exhibit 156" and further inscribed "Counted for Fitzgerald," and another one marked "Exhibit 157" and further inscribed "Counted for Fitzgerald."

Block No. 4 contains no exhibits.

Block No. 3 contains a ballot marked "Exhibit 157" and further inscribed "Counted for Fitzgerald," and another one marked "Exhibit 155" counted for Fitzgerald."

Ward 6, precinct 1.

Mr. FINIGAN. This box here is not sealed in the same manner as the others were. This box has not been opened by the Ballot Law Commission. This was opened at the recount and sealed by the commissioner at this office.

This box contains a canvas envelope containing the Republican ballots and a manila envelope containing the Socialist ballots and a canvas envelope containing the Democratic ballots.

Block No. 3 contains no exhibits.

Block No. 4 contains no exhibits.

Block No. 1 contains a ballot marked "Exhibit 5" and further inscribed "Counted for Tague."

Block No. 2 contains no exhibits.

Ward 6, precinct 2.

Mr. FINIGAN. This box sealed and opened under conditions similar to those preceding; contains a canvas envelope containing the Democratic ballots, a canvas envelope containing the Republican ballots, and a canvas envelope containing the Socialist ballots, also some blank tally sheets and some blank manila envelopes.

Block No. 2 contains no exhibits.

Block No. 1 contains no exhibits.

Block No. 4 contains no exhibits.

Block No. 3 contains no exhibits.

Ward 6, precinct 3.

Mr. FINIGAN. This box sealed and opened under conditions similar to the preceding ones. It contains a canvas envelope containing the Republican ballots and a canvas envelope containing the Democratic ballots.

Block No. 2 contains a ballot marked "Exhibit 16" and further inscribed "Not counted."

Block No. 1 contains no exhibits.

Block No. 3 contains no exhibits.

Block No. 4 contains no exhibits.

Ward 6, precinct 5.

Mr. FINIGAN. This box contains a canvas envelope containing the Republican ballots, a manila envelope containing the Socialist ballots and a canvas envelope containing the Democratic ballots.

Block No. 4 contains a ballot marked "Exhibit 77" and further inscribed "Counted for Fitzgerald;" also "Exhibit 76" further inscribed "Counted for Tague."

Block No. 1 contains no exhibits.

Block No. 2 contains no exhibits.

Block No. 3 contains no exhibits.

Ward 6, precinct 4.

Mr. FINIGAN. This box sealed and opened under conditions similar to the preceding ones.

It contains a canvas envelope containing the Republican ballots, a manila envelope containing the Socialist ballots, and a canvas envelope containing the Democratic ballots.

Block No. 1 contains no exhibits.

Block No. 2 contains no exhibits.

Block No. 3 contains no exhibits.

Ward 6, precinct 6.

Mr. FINIGAN. This box opened under the same conditions as the preceding ones.

Box contains three envelopes—one manila containing the Socialist ballots, one canvas containing the Republican, and one canvas containing the Democratic ballots.

Block No. 1 contains no exhibits.

Block No. 5 contains no exhibits.

Block No. 3 contains no exhibits.

Block No. 2 contains no exhibits.

Block No. 4 contains a ballot marked "Exhibit 85" and further inscribed "counted for Fitzgerald."

Ward 6, precinct 7: Box sealed and opened in the same manner as the preceding ones.

Mr. FINIGAN. Box contains a canvas envelope containing the Democratic ballots, a manila envelope containing the Socialist ballots, and a canvas envelope containing the Republican ballots.

Block No. 2 contains no exhibits.

Block No. 1 contains no exhibits.

Block No. 6 contains no exhibits.

Block No. 5 contains no exhibits.

Block No. 4 contains no exhibits.

Block No. 3 contains no exhibits.

Ward 6, precinct 8: Box sealed and opened in the same manner as the previous ones.

Mr. FINIGAN. Box contains a canvas envelope containing the Democratic ballots, a canvas envelope containing the Republican ballots, and a manila envelope containing the Socialist ballots.

Block No. 1 contains no exhibits.

Block No. 2 contains a ballot marked "Exhibit 98" and further inscribed "counted for Fitzgerald," and a ballot marked "Exhibit 97" further inscribed "counted for Tague."

Block No. 3 contains no exhibits.

Ward 6, precinct 9: Box sealed and opened in the same manner as the preceding one.

Mr. FINIGAN. Box contains a canvas envelope containing the Republican ballots, a manila envelope containing the Socialist ballots and a canvas envelope containing the Democratic ballots.

Block No. 4 contains no exhibits.

Block No. 1 contains a ballot marked "Exhibit 105" and further inscribed "not counted."

Block No. 3 contains no exhibits.

Block No. 2 contains no exhibits.

Mr. HARRINGTON. We call for the ballots cast at election wards 1 to 6, and then later we will ask for designated precincts at the primary, but we won't have to go through all the wards.

Notary BERMAN. You have produced as exhibits all those marked ballots and they are a part of the record. Now we want the ballots cast at the election for wards 1 to 6. When will it be convenient for you to produce them?

Mr. FINIGAN. Just as soon as we can get the men to bring them.

(Considerable discussion between counsel and witness as to the time of producing the ballots asked for.)

Notary BERMAN. It is now 12 o'clock. This hearing will be adjourned until 1.30 this afternoon, and we will resume with the ballots cast at the election in wards 1 to 6, inclusive—the ballots and records.

AFTERNOON SESSION, FEBRUARY 28, 1919.

Mr. HARRINGTON. Mr. Callahan wanted to get something in regard to these seals into the record.

Mr. CALLAHAN. I wanted them marked as exhibits.

By Mr. Callahan:

Q. Mr. Finigan, when the box that contained these ballots left the office of the commissioners was it a clean box, without any posters on it, or had it one or more posters on it?—A. It has one poster similar to the one you have in your right hand.

Q. Is that a copy of the poster on it?—A. That is a copy of the poster.

Q. And that covers the whole top of the box, doesn't it?—A. Yes.

Mr. CALLAHAN. I would like to have that marked as an exhibit.

Exhibit 26: White poster, 14 by 6''.

Mr. FINIGAN. It is the same form, but the reading may be different. This happens to be city election. It would be State election for the State elections.

Notary BERMAN. We will get a State election poster.

Q. This is for city election. It is made out city election, and for the city primary it is made out city primary, and for the State primary it is made State primary. With these few exceptions that is the form that is pasted on top of the ballot boxes?—A. That is the form that is pasted on top of the ballot boxes.

Q. When the votes have been counted and are to be sent to the election commissioners, does the warden or any of the clerks in the election precinct use a poster or form?—A. Yes; that poster is sent out, marked by the clerk in this office for the particular precinct to which it is sent.

Q. The particular precinct to which it is sent?—A. To which it is sent.

Q. How is that pasted on?—A. Pasted on the ends of the straps right over these two places here. Pasted over there and the ends of the straps.

Q. And the ends of the straps come in these two spaces?—A. The ends of the straps come in these two spaces.

Q. And these are pasted over the ends of the straps?—A. Yes.

Exhibit 27.—Smaller sticker.

Q. After these posters have been put on top of the box in the places designated, can any ballots be taken out without the breaking of these seals or posters?—A. No.

Q. And if the box were opened or any ballots taken out, the seal would have to be broken?—A. Necessarily.

Q. Now, if there is no recount or any order from a court calling for the opening of these several ballot boxes, are these seals ever broken?—A. No.

Q. In the case of a recount the seals are broken?—A. They are broken.

Q. And after the recount, has the commission a seal itself which it places on the boxes?—A. It has a poster. That is the form of poster.

Q. Is this the form of poster?—A. That is the form of poster.

Mr. CALLAHAN. I would like to have this marked as an exhibit.

Exhibit 28.—Poster used by election commission.

Q. And when these ballots are replaced in the box and this poster has been put upon it, it has an explanation of when it was placed on there and why it was placed on there?—A. Contains the date and the object for opening it, breaking and replacing and again resealing.

Q. And these are not opened except in the presence of the commission?—A. Never.

Mr. CALLAHAN. I think that is all.

Mr. O'CONNELL. Make a note here that the examination of Mr. Finigan on this particular subject of these seals will be taken up later on when we have finished with the ballots.

Mr. HARRINGTON. Will you give us precinct 1, ward 5, and segregate them there in the top of the box?

Mr. CALLAHAN. May I add one more question?

Mr. O'CONNELL. Sure.

Q. This form of seal was [referring to Exhibit 28] the form of seal used by the ballot law commission after the ballots had been counted?—A. It was.

Q. And there was a statement on the seal, signed by Mr. Vinson, a member of the ballot law commission?—A. There was.

Mr. CALLAHAN. I think I ought to call attention to the fact that—

Mr. HARRINGTON. He does every time. The box is sealed as heretofore described. Isn't that the thing you say?

A. Yes.

Mr. CALLAHAN. I think they are kept out.

Mr. FINIGAN. Of course. I don't know how these are since they came down from the ballot law commission.

Mr. HARRINGTON. These never went up there.

Mr. FINIGAN. What do you want?

By Mr. O'CONNELL:

Q. Read them off.—A. Ward 5, precinct 1, block 7, Exhibit 23, counted for Tague; ward 5, precinct 1, block 7, Exhibit 24, no vote; ward 5, precinct 1, block 7, Exhibit 22, counted for Tague; ward 5, precinct 1, block 7, Exhibit 21, counted for Tague; ward 5, precinct 1, block 6, counted for Tague, Exhibit 20;

this is the same ward and precinct, Exhibit 19, counted for Tague; Exhibit 18, counted for Tague; Exhibit 17, counted for Tague; Exhibit 16, no vote; counted for Tague; Exhibit 15; Exhibit 14, counted for Tague; Exhibit 13, counted for Tague; Exhibit 12, counted for Tague; Exhibit 11, counted for Tague; Exhibit 10, counted for Tague; Exhibit 9, no vote; Exhibit 8, no vote; Exhibit 7, counted for Tague; Exhibit 6, counted for Tague; Exhibit 5, counted for Tague; Exhibit 4, counted for Tague; Exhibit 3, counted for Tague; Exhibit 2, counted for Tague; Exhibit 1, counted for Tague.

Q. Now, what about the rest of it? I suppose you will have to go through to show they were there.—A. Just as soon as you sent the boxes to be resealed—

Notary BERMAN. Why don't you take those votes counted for Tague and put them aside?

Mr. CALLAHAN. Why, of course, they will have to be taken. We insist upon it, Mr. HARRINGTON. The contested ballots.

Mr. FINIGAN. Do you want to go through these boxes to look it up?

Q. Sure. These are exhibits and all exhibits numbered will be offered as evidence.—A. Ward 5, precinct 2; Exhibit 25, counted for Tague; Exhibit 26, counted for Tague; Exhibit 27, counted for Tague; Exhibit 28, counted for Tague; Exhibit 29, no vote; Exhibit 30, counted for Tague; Exhibit 31, counted for Tague; Exhibit 40, counted for Fitzgerald; Exhibit 32 counted for Tague; Exhibit 33, counted for Tague; Exhibit 34, counted for Fitzgerald; Exhibit 35, counted for Tague; Exhibit 36, counted for Tague; Exhibit 37, counted for Tague; Exhibit 38, counted for Tague; Exhibit 41, counted for Tague; Exhibit 42, counted for Tague; Exhibit 43, counted for Tague; Exhibit 44, counted for Tague; Exhibit 45, counted for Tague; Exhibit 46 counted for Tague; Exhibit 47, counted for Fitzgerald; Exhibit 48, counted for Tague; Exhibit 49, counted for Tague; Exhibit 50, counted for Tague.

Mr. CALLAHAN. I submit now that you can not do this and I am going to protest. I don't think you have any right nor authority to direct the witness to do that.

Mr. O'CONNELL. To do what?

Mr. CALLAHAN. To have Mr. Goodwin call off the numbers and you tell him what they are.

Mr. O'CONNELL. I want to verify what Mr. Finigan has done.

Mr. CALLAHAN. These numbers have been called off and we need no verification. The commissioner is custodian of these ballots.

A. Ward 5, precinct 3, block 1: Exhibit 187, counted for Fitzgerald; Exhibit 186, counted for Fitzgerald; Exhibit 185, counted for Tague; Exhibit 184, counted for Tague; Exhibit 183, counted for Tague; Exhibit 182, counted for Tague; Exhibit 181, counted for Tague; Exhibit 180, counted for Tague; Exhibit 179, counted for Tague; Exhibit 178, counted for Tague; Exhibit 176, counted for Tague; Exhibit 177, no vote; Exhibit 175, not counted; Exhibit 174, no vote; Exhibit 173, counted for Fitzgerald; Exhibit 172, Tague; Exhibit 171, not counted; Exhibit 170, counted for Tague; Exhibit 169, counted for Tague; Exhibit 168, counted for Tague; Exhibit 167, counted for Tague; Exhibit 166, not counted; Exhibit 165, counted for Fitzgerald; Exhibit 164, counted for Tague; Exhibit 163, counted for Tague; Exhibit 162, counted for Tague; Exhibit 161, counted for Fitzgerald; Exhibit 160, no vote; Exhibit 159, counted for Tague; Exhibit 158, no vote. Ward 5, precinct 3—the first three precincts have the exhibits on top.

Q. Can you verify that, Mr. Finigan?—A. It has nothing to do with me. Exhibit 455, counted for Tague; Exhibit 459, counted for Tague; Exhibit 458, not counted.

Mr. O'CONNELL. 458, Richard F. Tague.

A. 460, counted for Fletcher; Exhibit 461, counted for Tague; Exhibit 462, not counted.

Mr. O'CONNELL. Peter Tague, no cross.

A. Exhibit 463, not counted; Exhibit 464, counted for Tague; Exhibit 465, counted for Tague; Exhibit 466, counted for Fitzgerald; Exhibit 467, counted for Tague; Exhibit 454, counted for Fitzgerald; Exhibit 453, counted for Fitzgerald. Ward 5, precinct 5: Exhibit 468, counted for Fitzgerald; Exhibit 469, not counted; Exhibit 470, counted for Fitzgerald.

Mr. O'CONNELL. No. 469. Peter F. Tague, no cross.

A. Exhibit 471, counted for Tague; Exhibit 472, counted for Tague; Exhibit 473, not counted; Exhibit 474, counted for Fitzgerald; Exhibit 475, not counted; Exhibit 476, counted for Tague; Exhibit 477, not counted; Exhibit 478, counted for Tague; Exhibit 479, counted for Tague; Exhibit 480, counted for Tague;

Exhibit 481, counted for Tague; Exhibit 482, counted for Tague; Exhibit 483, not counted; Exhibit 484, counted for Fitzgerald; Exhibit 485, counted for Tague. Ward 5, precinct 6: Exhibit 792, counted for Tague; Exhibit 804, counted for Tague; Exhibit 805, counted for Tague; Exhibit 791, not counted; Exhibit 793, counted for Tague; Exhibit 794, counted for Tague; Exhibit 795, counted for Tague; Exhibit 796, counted for Tague; Exhibit 797, counted for Tague; Exhibit 798, counted for Tague; Exhibit 799, not counted; Exhibit 800, counted for Tague; Exhibit 801, counted for Tague; Exhibit 802, counted for Tague; Exhibit 803, counted for Tague; Exhibit 806, counted for Tague; Exhibit 807, counted for Tague; Exhibit 808, counted for Tague; Exhibit 809, counted for Tague; Exhibit 810, counted for Tague.

Q. Wait a moment; 810 is Fitzgerald?—A. 810 is Fitzgerald.

Notary BERMAN. 809 is Fitzgerald.

A. That is right. 809 is Fitzgerald; 810 is Fitzgerald; 811 is Fitzgerald; 869, Tague; 868, Tague; 858, Tague; 859, Fitzgerald; 860, Fitzgerald; 861, Tague; 862, Tague; 863, not counted; 864, Tague; 865, Fitzgerald; 866, Tague; 867, Tague; 870, not counted.

Mr. O'CONNELL. A sticker on 870 with two crosses.

A. 871, Tague; 872, Fitzgerald; 873, Fitzgerald; 874, Fitzgerald.

Mr. O'CONNELL. No. 874 has a faint cross.

A. 875, Tague; 876, Tague; 877, Tague. Ward 5, precinct 8: 1207, Fitzgerald; 1206, Fitzgerald; 1205, Fitzgerald; 1204, Fitzgerald; 1181, Tague; 1203, Fitzgerald; 1202, Fitzgerald; 1201, Fitzgerald; 1221, Fitzgerald; 1220, Fitzgerald; 1219, Fitzgerald; 1218, Fitzgerald; 1217, Fitzgerald; 1216, Fitzgerald; 1215, Fitzgerald; 1182, Fitzgerald; 1214, Fitzgerald; 1213, Fitzgerald; 1184, Fitzgerald; 1183, not counted.

Mr. O'CONNELL. Peter F. Tague, of Boston, written.

A. 1212, not counted; 1211, Fitzgerald; 1210, Tague; 1209, Fitzgerald; 1208, Fitzgerald; 1185, Fitzgerald; 1173, Tague; 1172, Tague; 1171, Tague; 1170, Tague; 1169, Tague; 1168, Tague; 1177, Tague; 1176, Tague; 1175, Tague; 1174, Tague; 1168, Fitzgerald; 1167, Tague; 1166, Tague; 1165, Tague; 1164, Tague; 1163, Tague; 1162, Fletcher; 1161, not counted.

Mr. O'CONNELL. 1161 has "Tague" written with no cross.

A. 1257, Tague; 1256, Tague; 1255, no vote; 1254, Fletcher; 1253, no vote; 1252, Fitzgerald; 1251, Tague.

Mr. O'CONNELL. Wait a minute. What did you say? That is a sticker with a cross for Fletcher.

Mr. BROGNA. On Fletcher.

Mr. O'CONNELL. All right.

A. 1150, Tague; 1249, Tague; 1248, Tague; 1247, Tague; 1246, Tague; 1245, Tague; 1244, Tague; 1243, not counted.

Mr. O'CONNELL. Written, "Peter F. Tague, of Boston," with no cross.

A. 1242, Tague; 1241, Tague; 1240, Tague; 1239, Fitzgerald.

Mr. HARRINGTON. That was Tague.

Mr. O'CONNELL. 1239 with a cross against Fletcher.

A. 1238, Tague; 1237, Tague.

Q. Mr. Commissioner, I would like to make this suggestion: That great care should be taken in handling these exhibits, for this reason, that the marked exhibit is only attached with a clip, and in some instances, as you already know, the clip has come off and you will have to put it back more securely. What I would suggest is that more care be used.—A. I will take the responsibility.

Q. I don't care whether you take it or not, but I would like to have it done.—A. I will take it.

Q. You are advised that I would like to have it done.—A. They are in pretty good shape.

Q. We are handling them.—A. I am calling your attention they will not be disturbed.

Q. I am calling your attention to this last.

Notary BERMAN. Proceed, Mr. Finigan.

Q. 1259, Tague; 1258, vote for Fitzgerald; 1263, counted for Tague; 1262, counted for Tague; 1261, counted for Tague; 1260, counted for Tague; 1267, counted for Fitzgerald; 1266, counted for Tague; 1265, counted for Tague; 1264, counted for Fitzgerald; 1270, counted for Tague; 1269, counted for Tague; 1268, counted for Tague; 1273, counted for Tague; 1272, not counted; 1271, counted for Tague.

Mr. O'CONNELL. 1272, written "Peter F. Tague," no cross.

A. 1273, counted for Fitzgerald; 1260, counted for Tague.

Notary BERMAN. Just as soon as the commissioner who is reciting all these takes a little rest, we will proceed. I summon you to the stand.

Mr. FINIGAN. I am not acting as commissioner. I am acting as a witness here.

A. 1278, counted for Tague; 1276, counted for Tague; 1275, counted for Tague; 1277, counted for Tague; 1279, counted for Tague; 1285, counted for Tague; 1284, counted for Fitzgerald; 1283, counted for Fitzgerald; 1282, not counted.

Mr. O'CONNELL. Sticker on 1282 misplaced.

A. 1281, counted for Fitzgerald; 1289, counted for Fitzgerald; 1280, not counted; 1294, counted for Tague; 1295, counted for Tague; 1392, counted for Tague; 1291, counted for Tague; 1290, counted for Fitzgerald; 1289, counted for Tague; 1288, counted for Tague; 1287, not counted.

Mr. O'CONNELL. Peter Tague, written, no cross.

A. 1286, counted for Tague; 1296, counted for Tague; 1297, counted for Tague; 1298, not counted.

Mr. O'CONNELL. Sticker, no cross.

A. 1299, counted for Tague; 1300, no vote; 1301, counted for Tague; 1202, counted for Tague; 1203, counted for Tague; 1204, counted for Tague. Ward 6——

Notary BERMAN. All through Ward 5?

A. That makes it all.

Notary BERMAN. Ward 6, precinct 1.

Q. Exhibit 1081, counted for Tague; 1080, counted for Tague; 1079, counted for Tague; 1078, no vote, 1077, counted for Tague; 1076, counted for Tague; 1075, counted for Tague; 1074, counted for Tague; 1073, counted for Tague;; 283, not counted.

Mr. O'CONNELL. John F. Tague, of Boston.

A. 282, counted for Tague; 281, counted for Tague; 280, counted for Tague; 279, counted for Tague; 278, counted for Tague; 277, not counted.

Mr. O'CONNELL. A sticker and no cross.

A. 276, no vote.

Mr. O'CONNELL. A sticker with three crosses.

A. 275, Tague; 274, counted for Tague; 273, counted for Tague; 272, counted for Fletcher.

Mr. O'CONNELL. A sticker on 272, without a cross, and two crosses against Fletcher.

A. 288, not counted.

Mr. O'CONNELL. A sticker and no cross.

A. 286, not counted; 285, not counted; 284, not counted; 289, counted for Fitzgerald; 295, no vote.

Mr. O'CONNELL. A sticker on that, no cross.

A. Exhibit 294, counted for Tague; 293, counted for Tague; 292, counted for Tague; 291, counted for Tague; 290, counted for Tague; 305, counted for Tague; 304, counted for Tague; 303, counted for Tague; 302, counted for Tague; 301, counted for Tague; 300, not counted.

Mr. O'CONNELL. Written, Peter F. Tague, no cross.

A. Exhibit 299, counted for Tague; 298, counted for Tague; 297 counted for Tague; 296, counted for Tague; 1056, counted for Tague.

(Mr. Murphy here took Mr. Finigan's place to read the ballots.)

A. Ward 6, precinct 3, block 2, Exhibit 575, Tague, 581, Tague; 580, Tague 579, Tague; 578, Tague; 577, Tague; 576, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. 584, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. Exhibit 589, Tague; 588, Tague; 587, Tague; 586, Tague; 585, Tague; 594, Tague; 593, Tague; 592, not counted.

Mr. O'CONNELL. Not counted, a sticker with no cross.

A. 591, no vote.

Mr. O'CONNELL. A sticker with no cross.

A. 595, not counted.

Mr. O'CONNELL. Peter F. Tague written with a cross, and a cross against Fitzgerald, blurred out.

A. Exhibit 596, Tague; 597, Tague; 598, not counted; 599, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. Exhibit 600, Tague; 601, Tague; 602, not counted.

Mr. O'CONNELL. A sticker with no cross.

- A. 603, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 605, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 604, counted for Tague; 606, Tague. That is, ward 6, precinct 4, block 5. Ward 6, precinct 5. Tague. Exhibit 942; 943, Hammond T. Fletcher, of Boston.
 Mr. O'CONNELL. A sticker was on there and taken off.
 A. 944, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 945, Tague; 946, Tague; 947, Tague; 948, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 949, Tague; 951 has a sticker without a cross and not counted; 953, counted for Fitzgerald; 952, counted for Fitzgerald.
 Mr. O'CONNELL. 953, what is that? The cross below the line.
 Mr. BROGNA. I give notice now if any of these comments are put in the record, I shall object to it.
 A. 954, Tague; 955, Tague; 956, Tague; 957, no vote.
 Mr. O'CONNELL. A sticker with a cross and a cross against Fletcher.
 A. 958, Tague.
 Notary BERMAN. That is the end of precinct 5.
 A. Ward 6, precinct 6; 1013, Tague; 1014, Tague; 1011, Tague; 1012, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 1018, not counted.
 Mr. O'CONNELL. A sticker with no cross. I think it would be well to put in the record, the sticker is barely hanging on.
 A. 1019, not counted; 1015, counted for Tague; 1016, Tague; 1017, not counted.
 Mr. O'CONNELL. A sticker with a cross.
 A. 1010, Tague; 1009, not counted.
 Mr. O'CONNELL. A sticker without a cross.
 A. 1008, not counted.
 Mr. O'CONNELL. A sticker without a cross.
 A. End of precinct 6. Ward 6, precinct 7, 1116, Tague; 1118, Tague; 1117, Tague; 1122, Tague; 1121, Fitzgerald.
 Mr. O'CONNELL. Cross obliterated against Fitzgerald by a double cross.
 A. 1120, not counted.
 Mr. O'CONNELL. A sticker and no cross.
 A. 1119, not counted.
 Mr. O'CONNELL. A sticker and no cross.
 A. 1124, Tague; 1123, Tague; 1126, Tague; 1125, Tague; 1128, Tague; 1127, Tague; 1132, Tague; 1131, Tague; 1130, not counted.
 Mr. O'CONNELL. A sticker and no cross.
 A. 1129, Tague. That is the end of precinct 7, ward 6. Ward 6, precinct 8; 1190, no vote.
 Mr. O'CONNELL. A sticker against the name of Tague and also a cross against Fletcher.
 Mr. BROGNA. I don't suppose Mr. O'Connell's comments are taken down and will not be evidence.
 A. 1189, Tague; 1188, Tague; 1187, Tague; 1186, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 1194, Tague; 1193, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 1192, Tague; 1191, Tague; 1196, Tague; 1196, Tague; 1195, Tague; 1198, Tague; 1197, Tague; 1200, Tague; 1199, Tague; that is the end of precinct 8, ward 6. Ward 6, precinct 9; 1223, Tague; 1222, not counted; 1224, Tague; 1226, not counted; 1225, Tague; 1231, no vote.
 Mr. O'CONNELL. A sticker with a cross against Tague and also against Fletcher.
 A. 1230, Tague; 1229, no vote; 1227, Fletcher; 1233, Tague; 1232, Tague; 1234, Tague; 1236, Tague; 1235, Tague.
 Mr. O'CONNELL. Commissioner Finigan went out and brought in the ballots, no Republican commissioner being present.
 A. We are only present when the vault is opened. 271, Tague; 270, Tague; 269, no vote.
 Mr. O'CONNELL. A sticker not marked.
 A. No. 268, Tague; 267, Tague; 266, Tague; 265, Tague; 264, not counted.
 Mr. O'CONNELL. A sticker not marked.

A. 262, Tague; 261, Tague; 260, Tague; 259, Tague; 258, Tague, 257, Tague; 256, Tague; 255, Tague; 254, Tague; 253, Tague; 252, not counted.

Mr. O'CONNELL. A sticker not marked.

A. 251, not counted.

Mr. O'CONNELL. A sticker not marked.

A. 250, not counted.

Mr. O'CONNELL. Name written in.

A. 249, Tague; 248, not counted.

Mr. O'CONNELL. A sticker not marked.

A. 247, Tague; 246, Tague; 245, Tague; 244, Tague; 243, Tague; 242, Tague; 241, Tague; 240, Tague; 239, Tague; 238, no vote.

Mr. O'CONNELL. A cross where the sticker was stuck and fell off.

A. 237, Tague; 236, Tague; 235, Tague; 234, Tague; 233, not counted.

Mr. O'CONNELL. A sticker; no cross.

A. 232, Tague; 231, Hammond T. Fletcher; 230, Tague; 229, Tague; 228, Tague; 227, Tague; 226, Tague; 225, Tague; 224, not counted.

Mr. O'CONNELL. Written, Peter F. Tague, no cross.

A. 223, Tague; 222, Tague. That is the end of ward 1, precinct 1. Ward 1, precinct 2. 98, Tague; 97, not counted.

Mr. O'CONNELL. The cross on the blank space indicating the sticker fell off.

A. 99, Tague; 100, Tague; 101, Tague; 102, Tague; 103, no vote.

Mr. O'CONNELL. A sticker and no cross.

A. 104, Tague; 105, Tague; 106, no vote.

Mr. O'CONNELL. A sticker with a cross against Tague and also against Fitzgerald.

A. 107, not counted; 108, not counted; 109, Tague; 110, Tague; 111, Tague; 112, Tague; 113, Tague; 114, Tague; 115, Tague; 116, Tague; 117, Tague; 118, Tague; 119, Tague; 120, Tague; 121, Tague; 122, Tague; 123, no vote.

Mr. O'CONNELL. A sticker and no cross.

A. 124, Tague; 125, Tague; 126, Tague; 127, no vote.

Mr. O'CONNELL. A sticker and no cross.

A. 128, Tague; 129, not counted.

Mr. O'CONNELL. A sticker and no cross.

A. 130, Tague; 131, Tague; 132, Tague; 133, Tague; 134, Tague; 136, Tague; 137, Tague; 138, Tague; 139, Tague; 140, Fitzgerald.

Mr. O'CONNELL. A cross against the name under the name of Fletcher, also indicating that it voted for Tague.

A. Ward 1, precinct 3. 380, Tague; 379, Tague; 378, no vote; 377 not counted.

Mr. O'CONNELL. Written in, Peter F. Tague.

A. 376, Tague; 375, Tague.

Mr. O'CONNELL. This sticker is nearly off that ballot.

A. 374, Tague; 373, not counted; 372, Tague; 371, Tague; 370, Tague; 369, Tague; 368, Tague; 367, Tague; 366, not counted; 365, Tague; 364, not counted; 363, Fitzgerald; 362, not counted.

Mr. O'CONNELL. Wait a moment—Peter F. Tague.

A. 361, not counted; 360, Tague; 359, not counted.

Mr. O'CONNELL. The name of Peter F. Tague, blurred, with ink, and two crosses.

A. 358, not counted.

Mr. O'CONNELL. A sticker, no cross.

A. 357, Tague; 356, no vote; 355, Tague; 354, Tague; 353, not counted.

Mr. O'CONNELL. 353 is a sticker without any cross.

A. 252, Tague; 351, Tague; 350, Tague; 349, Tague; 348, Tague. The end of precinct 3.

Mr. O'CONNELL. I want to suspend with him for a minute or two. I want to ask Mr. Finnigan a few questions at the present time. (Mr. Finnigan takes the stand.)

Q. Mr. Finnigan, where did you get those ballots that were just brought into this room?—A. Out of the vault.

Q. How did you get into the vault?—A. In the safe.

Q. You were alone when you opened it?—A. Yes.

Q. Where was the Republican commissioner?—A. He was not there at the safe, but he had thrown over the combination previously.

Q. He had thrown over the combination previously, and you had gone down and got these ballots without his being there?—A. No; it was not necessary.

Q. In other words, you were able to go into the vault since 2 o'clock without the presence of any Republican commissioner?—A. No.

Q. Was there any Republican commissioner present?—A. Yes; Wasserman.

Q. Was he present when you went down there?—A. Yes.

Mr. O'CONNELL. All right. That is all. Mr. Wasserman, will you take the stand, please?

Mr. WASSERMAN, sworn.

Q. What is your full name?—A. Jacob Wasserman.

Q. Are you one of the election commissioners of the city of Boston?—A. I am.

Q. One of the so-called Republican commissioners?—A. Yes, sir.

Q. You just came into this election hearing this afternoon at 10 minutes past 3?—A. No; I have been here before that.

Q. When were you here?—A. I have been here on four different occasions.

Q. Since noontime?—A. Around 2.

Q. What time?—A. Around 2.

Q. Then where did you go?—A. Went to my office.

Q. And you did not go to the vault with Mr. Finigan, did you?—A. No.

Q. Have you been down to the vault since you came back to the room?—Since when.

Q. Since you came back after going to your office?—A. No.

Q. So that nobody has gone to that vault—strike that out. Republican Commissioner Burlen is not present, is he?—A. I don't see him here.

Q. He has not been present all day?—A. I have not seen him all day.

Q. So far as you know, you are the only Republican commissioner here?—A. I am.

Q. When did you swing the combination of that vault back?—A. Back?

Q. When did you touch the combination of that vault this afternoon?—A. I did not touch it this afternoon.

Q. You did not touch it this afternoon. When did you touch this combination?—A. This morning.

Q. What time?—A. About half-past 9.

Q. Since that time you have not been to the vault?—A. I have.

Q. What time?—A. Since that time.

Q. For what purpose?—A. For the purpose of having the vault open.

Q. Has the vault been closed since?—A. It was shut the time the combination was left unlocked.

Q. It was shut the time the combination was left unlocked, so Mr. Finigan was able to go down to the vault as a result of your having thrown the combination?—A. Yes.

Q. All the time from half past 9 up to the present time?—A. All the time from half past 9 up to the present time.

Q. Did you put the combination on last night?—A. I believe I did.

Q. Are you sure?—A. Fairly sure.

Q. Now, reflect.—A. I have reflected.

Q. What time did you put it on?—A. My recollection is that it was put on around half past 5.

Q. You are not sure of that, are you?—A. That is my best recollection.

Q. Would it surprise you to know you did not put it on after Commissioner Finigan put it on last night?—A. It would surprise me; yes, sir.

Mr. O'CONNELL. That is all.

Mr. BROGNA. No questions.

Notary BERMAN. Proceed with the counting of these exhibits.

Mr. BROGNA. I want to call attention to the fact that the men whose depositions are now taken, as I said earlier in the day, have all these boxes described with their seals not broken, and the seals are shown on the boxes.

A. Ward 1, precinct 4; 517, Tague; 516, not counted; 515, not counted; 514, no vote.

Mr. O'CONNELL. A sticker with a cross against Fletcher.

A. 513, Tague; 512, Tague; 511, Tague; 510, not counted; 509, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. 506, Tague; 507, Tague; 506, Tague; 505, not counted; 504, not counted; 503, Tague; 502, not counted.

Mr. BROGNA. Don't break any of these seals.

A. 501, Tague; 500, Tague; 499, Tague; 498, Tague; 487, Tague; 496, not counted; 495, not counted; 494, Tague; 493, not counted; 492, Tague; 491, Tague; 490, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 489, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 488, Tague; 487, Tague; 486, Tague. End of ward 1, precinct 4. This is ward 1, precinct 5, block 1. 574, Tague; 573, Tague; 572, Tague; 570, not counted.

Mr. O'CONNELL. A cross in the blank and a sticker underneath.

A. 569, Tague; 568, not counted; 567, Tague; 566, Tague; 565, Tague; 564, Tague; 563, Tague; 562, no vote.

Mr. O'CONNELL. A cross in the blank indicating the sticker had fallen off.

A. 561, not counted.

Mr. O'CONNELL. A sticker with a cross in the column outside.

A. 560, not counted.

Mr. O'CONNELL. A sticker with a cross right over the name Tague, diagonally.

A. 559, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 558, Tague; 557, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 556, Tague; 555, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 554, Tague; 552, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 551, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 550, Tague; 549, Tague; 548, Tague; 547, Tague; 546, not counted.

Mr. O'CONNELL. Peter F. Tague, of Boston, written in and not marked.

A. 571, not marked.

Mr. O'CONNELL. A sticker with a cross opposite, but not counted.

A. 553, not counted. End of ward 1, precinct 5.

Mr. O'CONNELL. A sticker with a cross, not counted.

Mr. BROGNA. The suggestion was made that before you open it you call attention to the fact that the seals are intact.

Mr. O'CONNELL. Mr. Callahan's suggestion is right; state that the boxes are found sealed.

Mr. BROGNA. And that the others were found in the same way.

Mr. CONNELL. There is no dispute on the others.

Mr. CALLAHAN. I want to do it so the commissioners would be protected.

A. Ward 1, precinct 6: 753, Fitzgerald; 750, Tague; 752, Tague; 751, Tague; 727, not counted.

Mr. O'CONNELL. A sticker with Mr. Tague's name, a cross, and also a cross against the name Fitzgerald.

A. 726, Tague; 733, Tague; 732, Tague; 731, Tague; 730, Tague; 729, Tague; 726, Tague; 740, Tague; 739, Tague; 738, Tague; 737, Tague; 736, Tague; 735, Tague; 734, Tague; 744, Tague; 743, Tague; 742, Tague; 741, Tague; 749, Tague; 748, Tague; 747, Tague; 746, Tague; 745, Tague. Ward 1, precinct 7: 790, Peter F. Tague; 789, John W. Fitzgerald; 788, Fitzgerald.

Mr. O'CONNELL. No cross against Fitzgerald.

A. 787, Tague; 786, Tague; 785, not counted.

Mr. O'CONNELL. A sticker not marked.

A. 784, Tague; 783, Tague; 782, Tague, 781, Tague; 780, Tague; 779, Tague; 778, Tague; 777, not counted.

Mr. O'CONNELL. A sticker for Tague and no cross.

A. 776, Tague; 775, Tague; 774, Tague; 773, Tague; 772, Tague; 771, Tague; 770, Tague; 769, Tague; 768, Tague; 767, Tague; 766, Tague; 765, Tague; 764, Tague; 763, Tague; 762, Tague; 761, Tague; 760, Tague; 759, Tague; 758, Tague; 755, Fitzgerald.

Mr. O'CONNELL. An ordinary straight cross against Fitzgerald, whilst the others are not.

A. 754, Tague; 757, no vote.

Mr. O'CONNELL. A sticker with a cross against Fitzgerald's name. Not counted.

A. 756, Tague. Ward 1, precinct 8: 1083, Tague; 1082, Tague; 1088, Tague; 1087, not counted; 1086, Tague; 1085, Tague; 1084, Tague; 1094, not counted; 1093, Fitzgerald.

Mr. O'CONNELL. A double cross for Fletcher.

A. 1092, Tague; 1091, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. 1090, Tague; 1089, Hammond T. Fletcher; 1099, Tague; 1098, Tague; 1097, not counted.

Mr. O'CONNELL. A sticker with no cross.

- A. 1096, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 1095, not counted.
 Mr. O'CONNELL. A sticker with no cross.
 A. 1103, Tague; 1102, Tague; 1101, not counted; 1100, Fletcher.
 Mr. O'CONNELL. A cross against the blank where the sticker was, obliterated.
 A. 1109, not counted.
 Mr. O'CONNELL. A sticker not marked.
 A. 1107, Tague; 1106, Tague; 1105, Tague; 1104, not counted; 1105, not counted; 1114, not counted; 1113, not counted; 1112, not counted.
 Mr. O'CONNELL. A sticker with a cross against Tague and Fitzgerald.
 A. 1111, Tague; 1110, Tague.
 Mr. O'CONNELL. These five, ending with 1112, were ballots where the sticker fell off.
 A. Ward 2, precinct 1, block 7: 141, Tague; 142, Tague; 143, Tague; 144, no vote.
 Mr. O'CONNELL. A sticker without a cross.
 A. 145, Tague.
 Mr. O'CONNELL. Part of this particular sticker has gone, and the rest is just held on.
 A. 146, Tague; 147, Tague; 148, not counted.
 Mr. O'CONNELL. No sticker, the indication being that it fell off.
 A. 149, Fitzgerald; 150, Fitzgerald.
 Mr. O'CONNELL. That is a bad one.
 A. 151, Tague; 152, Tague; 153, Tague; 154, Tague; 155, no vote.
 Mr. O'CONNELL. A sticker on here with the cross in the margin between the second and third columns.
 A. 156, Tague; 157, Tague. Ward 2, precinct 2. 323, no vote.
 Mr. O'CONNELL. Sticker and no cross.
 A. 324, Tague; 326, not counted; 327, not counted.
 Mr. O'CONNELL. Nobody voted for on these. Not counted. 323 has a sticker without a cross.
 A. 306, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 307, Peter F. Tague; 308, Tague; 309, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 310, Tague; 311, Tague; 312, not counted.
 Mr. O'CONNELL. A sticker without a cross.
 A. 313, Tague; 314, Tague; 315, no vote.
 Mr. O'CONNELL. No one voted for.
 A. 316, no vote.
 Mr. O'CONNELL. No one voted for.
 A. 317, Tague; 318, Tague; 319, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 320, Tague; 321, Tague; 322, not counted.
 Mr. O'CONNELL. No one voted for.
 A. The seal on this box is intact. This is ward 2, precinct 3, block 6. 381, Tague; 382, Tague; 383, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 384, Tague; 385, Fitzgerald.
 Mr. O'CONNELL. A cross in the Fletcher column.
 A. 386, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 387, Tague; 388, Fitzgerald; 389, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 390, Tague; 391, Tague; 392, Tague; 393, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 394, not counted.
 Mr. O'CONNELL. No one voted for.
 A. 395, no vote.
 Mr. O'CONNELL. Cross against a sticker for Tague and also a cross inserted against Fitzgerald.
 A. 396, not counted.
 Mr. O'CONNELL. Peter F. Tague, Boston, Mass., written in and a delicate cross against Fitzgerald.
 A. 397, Tague; 398, Tague; 399, not counted.
 Mr. O'CONNELL. Peter F. Tague written in and no cross.

A. The seal on this box is intact. This is ward 2, precinct 4, block 5. Exhibit 524, not counted.

Mr. O'CONNELL. A cross against the sticker, Peter F. Tague, and not counted.

A. 518, Tague; 519, Tague; 520, not counted.

Mr. O'CONNELL. A sticker not crossed.

A. 521, Tague; 522, not counted.

Mr. O'CONNELL. No one voted for.

A. 523, Tague; 525, Tague; 526, Tague; 527, not counted.

Mr. O'CONNELL. No one voted for.

A. 528, not counted.

Mr. O'CONNELL. No one voted for.

A. 529, not counted.

Mr. O'CONNELL. A sticker not marked.

A. 530, Tague; 531, not counted.

Mr. O'CONNELL. No one voted for.

A. 532, not counted.

Mr. O'CONNELL. No one voted for.

A. 533, not counted.

Mr. O'CONNELL. A sticker and no cross.

A. 534, Tague; 535, Tague; 536, not counted.

Mr. O'CONNELL. No one voted for, 535, 536.

A. 537, not counted.

Mr. O'CONNELL. A sticker with a cross against Fitzgerald and Tague.

A. 538, not counted.

Mr. O'CONNELL. No cross against any name for Congress.

A. 539, not counted; 540, not counted.

Mr. O'CONNELL. Peter F. Tague, of Boston, written in.

A. 541, not counted.

Mr. O'CONNELL. Peter F. Tague, of Boston, written in.

A. 542, Tague; 543, not counted.

Mr. O'CONNELL. No one voted for.

A. 544, Tague; 545, not counted.

Mr. O'CONNELL. No one voted for.

A. Ward 2, precinct 4. These seals are intact. Ward 2, precinct 5, block 6. 682, Tague; 683, Tague; 684, not counted.

Mr. O'CONNELL. Peter F. Tague, written in under Congress.

A. 685, Tague; 686, not counted.

Mr. O'CONNELL. No one voted for.

A. 687, not counted.

Mr. O'CONNELL. No one voted for.

A. 688, Tague; 689, Tague; 690, Tague; 691, Tague; 692, not counted.

Mr. O'CONNELL. No one voted for.

A. 693, Tague; 694, Tague; 695, Tague; 696, not counted.

Mr. O'CONNELL. No one voted for.

A. 698, not counted.

Mr. O'CONNELL. No one voted for.

A. 699, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 700, Tague; 701, Tague; 702, not counted.

Mr. O'CONNELL. No one voted for.

A. 703, Tague; 704, Tague; 705, not counted.

Mr. O'CONNELL. No one voted for.

A. 706, Fitzgerald.

Mr. O'CONNELL. A sticker with no cross against it.

A. 707, Tague; 708, Tague; 709, not counted.

Mr. O'CONNELL. A sticker without a cross and Fitzgerald's name obliterated.

A. 790, not counted; 711, not counted; 712, Tague; 713, not counted.

Mr. O'CONNELL. No one voted for.

A. 714, not counted.

Mr. O'CONNELL. No one voted for.

A. 715, not counted.

Mr. O'CONNELL. No one voted for.

A. 716, not counted.

Mr. O'CONNELL. No one voted for.

A. 717, Tague; 718, not counted.

Mr. O'CONNELL. A cross in the blank indicating the sticker had been placed on.

A. 719, not counted.

- Mr. O'CONNELL. No one voted for.
 A. 720, not counted.
- Mr. O'CONNELL. A sticker without a cross.
 A. 721, not counted.
- Mr. O'CONNELL. A sticker with a cross opposite it, but not counted. I note that the sticker is almost detached.
 A. 722, Tague; 723, Tague; 724, Fitzgerald.
- Mr. O'CONNELL. The cross was intended for Fletcher.
 A. 725, Tague; the seal on this box is intact. Ware 2, precinct 6: 892, not counted.
- Mr. O'CONNELL. A sticker with a cross. There is a cross partly obliterated against the sticker.
 A. 878, Tague; 879, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 880, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 881, Tague; 882, Tague; 883, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 884, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 885, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 886, Tague; 887, Tague; 888, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 889, Tague; 890, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 891, not counted.
- Mr. O'CONNELL. A sticker and no mark.
 A. 892, Tague; 893, Tague; 894, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 895, Tague; 896, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 897, Tague; 898, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 899, no vote.
- Mr. O'CONNELL. A sticker and a cross against Fletcher and Tague.
 A. 900, no vote.
- Mr. O'CONNELL. A sticker and a cross against Fitzgerald and Tague.
 A. 901, Tague; 902, Tague; 903, no vote.
- Mr. O'CONNELL. A sticker with a cross against Tague's name, and also a cross against the name of Fletcher.
 A. 904, Tague; 905, Fletcher.
- Mr. O'CONNELL. A sticker without a cross, or with a cross against the name of Fletcher.
 A. 906, Tague; 907, not counted; 908, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 909, Tague; 910, not counted.
- Mr. O'CONNELL. A sticker and no cross.
 A. 911, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 212, Tague; 913, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 914, not counted.
- Mr. O'CONNELL. A sticker without a cross.
 A. 915, Tague; 916, not counted.
- Mr. O'CONNELL. Peter F. Tague, written in, no cross.
 A. 917, Tague; 918, Tague; 919, Tague. Ward 2, precinct 7, 1020, Fitzgerald.
- Mr. O'CONNELL. Cross in the next space where the sticker undoubtedly was.
 A. 1021, Tague; 1022, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 1023, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 1024, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 1025, not counted.
- Mr. O'CONNELL. No one voted for.
 A. 1026, not counted.

Mr. O'CONNELL. Peter F. Tague written in last part of ballot.

A. 1027, no vote.

Mr. O'CONNELL. A cross against everybody's name.

A. 1028, not counted.

Mr. O'CONNELL. No one voted for.

A. 1029, not counted.

Mr. O'CONNELL. No one voted for.

A. 1030, not counted.

Mr. O'CONNELL. No one voted for.

A. 1031, not counted.

Mr. O'CONNELL. No one voted for.

A. 1032, not counted.

Mr. O'CONNELL. No one voted for.

A. 1033, not counted.

Mr. O'CONNELL. Sticker for Tague, not marked.

A. 1034, not counted.

Mr. O'CONNELL. No one voted for.

A. 1035, not counted.

Mr. O'CONNELL. No one voted for.

A. 1036, not counted.

Mr. O'CONNELL. No one voted for.

A. 1037, no vote.

Mr. O'CONNELL. No one voted for.

A. 1038, not counted.

Mr. O'CONNELL. No one voted for.

A. 1039, not counted.

Mr. O'CONNELL. No one voted for.

A. 1040, not counted.

Mr. O'CONNELL. No one voted for.

A. That is the end of that precinct. Ward 2, precinct 8, block 6, 1041, not counted.

Mr. O'CONNELL. No one voted for.

A. 1042, Peter F. Tague; 1043, not counted; 1044, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 1045, Peter F. Tague; 1046, Peter F. Tague; 1047, Peter F. Tague; 1048, no count.

Mr. O'CONNELL. A sticker without a cross.

A. 1049, Tague; 1050, Tague; 1051, Tague; 1052, not counted.

Mr. O'CONNELL. No one voted for.

A. 1053, Tague; 1054, not counted.

Mr. O'CONNELL. No one voted for.

A. 1055, Tague; 1057, Tague; 1058, not counted.

Mr. O'CONNELL. No one voted for.

A. 1059, Tague; 1060, Fitzgerald.

Mr. O'CONNELL. No cross in the column.

A. 1061, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 1062, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 1063, Fletcher; 1064, not counted.

Mr. O'CONNELL. No one voted for.

A. 1065, Tague; 1066, Tague; 1067, Tague; 1068, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 1069, Tague; 1070, Tague; 1071, Tague; 1072, Peter F. Tague. (Exhibit 1056 was not produced. Apparently missing.)

Notary BERMAN. Ready for wards 3 and 4, gentlemen?

Mr. O'CONNELL. Yes.

Notary BERMAN. Are the commissioners ready to bring them in?

Mr. FINIGAN. They are here. I have them here.

A. Ward 4, precinct 1. The seal is intact. 96, Tague; 95 not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 94, Tague; 93, not counted.

Mr. O'CONNELL. A cross in the blank space, indicating the sticker is lost.

A. 92, no vote.

Mr. O'CONNELL. A sticker with no cross.

A. 91, Tague; 90, Tague; 89, Fitzgerald.

Mr. O'CONNELL. A sticker with no cross.

A. 88, not counted.

- Mr. O'CONNELL. Peter F. Tague written in in the councillor's column.
 A. 81, Tague; 82, Tague; 83, no vote.
- Mr. O'CONNELL. A sticker with no cross.
 A. 84, no vote.
- Mr. O'CONNELL. A sticker with no cross.
 A. 85, Tague; 86, Tague; this seal is intact. Precinct 4, ward 2. 51, Tague; 52, Tague; 53, Tague; 54, Fitzgerald.
- Mr. O'CONNELL. A cross that was obliterated.
 A. 55, Tague; 56, Tague; 57, Tague; 58, Tague; 59, Tague; 60, Tague; 61, Tague; 62, no vote.
- Mr. O'CONNELL. A sticker with no cross.
 A. 63, no vote.
- Mr. O'CONNELL. A sticker with no cross.
 A. 64, Tague; 65, Tague; 66, Tague; 67, Tague; 68, Tague; 69, no vote.
- Mr. O'CONNELL. A sticker with no cross.
 A. 70, no vote.
- Mr. O'CONNELL. Peter F. Tague written in. John F. Fitzgerald crossed out with a cross.
 A. 71, Tague; 72, Tague; 73, Tague; 74, Tague; 75, Tague; 76, Tague; 77, Tague; 78, no vote.
- Mr. O'CONNELL. Peter Tague written in. No cross.
 A. 79, Tague; 80, Tague; the seals on this are intact. Ward 4, precinct 3, block 4. 407, no vote.
- Mr. O'CONNELL. A sticker with no cross.
 A. 406, Tague; 405, Tague; 404, Tague; 403, Tague; 402, Tague; 401, Tague; 400, Tague; that is all of that ward. The seals in this box are intact. Ward 4, precinct 4. 431, not counted.
- Mr. O'CONNELL. Sticker with no cross.
 A. 432, Tague; 433, Tague; 434, Tague; 435, not counted.
- Mr. O'CONNELL. Sticker for Peter F. Tague with a cross down in the column in the center.
 A. 436, not counted.
- Mr. O'CONNELL. A sticker with no cross.
 A. 437, Tague; 438, Tague; 439, Tague; 440, not counted.
- Mr. O'CONNELL. A sticker with no cross.
 A. 441, Tague; 442, Tague; 443, Tague; 444, Tague; 445, Fitzgerald.
- Mr. O'CONNELL. Peter F. Tague of Boston written in in the congressional column in box for Senator.
 A. 446, Tague; 447, no vote.
- Mr. O'CONNELL. Name written in with a cross opposite the end of column.
 A. 448, not counted.
- Mr. O'CONNELL. A sticker with no cross.
 A. 449, Tague; 450, Tague; 452, Tague; 451, Tague. This seal is intact. Ward 4, precinct 5, exhibit 331, Tague; 819, Tague; 816, not counted.
- Mr. O'CONNELL. A sticker with a cross against it and a cross before it. Three crosses on it.
 A. 825, Tague; 826, not counted.
- Mr. O'CONNELL. A sticker on this ballot and a cross in the middle between the word "Boston" and "for" and the sticker detached from the ballot.
- Mr. BROGNA. I object to that comment. Please note my objection.
 A. 818, Tague; 815, not counted.
- Mr. O'CONNELL. A sticker for Tague and a cross opposite.
- Mr. BROGNA. I object to that comment and ask that my objection be noted.
 A. 839, Tague; 838, Tague; 837, Tague; 836, Tague; 835, Tague; 834, Tague; 833, Tague; 832, Tague; 830, Tague; 829, Tague; 828, Tague; 827, Tague; 824, Tague; 823, Tague; 822, Tague; 821, Tague.
- Mr. O'CONNELL. Put a clip on that.
- Mr. MURPHY. Yes; isn't there a clip on it?
- Mr. O'CONNELL. No.
 A. 820, not counted.
- Mr. O'CONNELL. A sticker with no cross.
 A. 817, not counted.
- Mr. O'CONNELL. No vote. A cross in the blank space.
- Mr. BROGNA. I object to that comment and ask that my objection be noted.
- Notary BERMAN. The judge has noted the objection.
 A. 814, Fitzgerald.
- Mr. O'CONNELL. A sticker on this not marked.

A. 813, Tague; 812, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. The seals on this box are intact. Ward 4, precinct 6; 842, Tague; 841, Tague; 843, Tague; 857, Tague; 856, Fitzgerald.

Mr. O'CONNELL. A sticker without a cross and a cross against Fitzgerald.

A. 855, Tague; 854, Tague; 853, Tague; 852, Tague; 851, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 850, not counted.

Mr. O'CONNELL. A cross in the blank space under Fletcher indicating where the sticker was.

A. 849, not counted.

Mr. O'CONNELL. A sticker for Tague but not marked.

A. 848, Fletcher.

Mr. O'CONNELL. A sticker for Tague with a cross opposite the name of Fletcher.

A. 847, not counted.

Mr. O'CONNELL. A sticker for Tague not marked.

A. 846, Fitzgerald.

Mr. O'CONNELL. A sticker for Tague not marked and an obliteration against the name Fitzgerald. No cross there.

A. 845, Tague; 844, Tague; 840, not counted.

Mr. O'CONNELL. A sticker for Tague not marked.

A. You will note that the seal on this is intact. Ward 4, precinct 7. 925, not counted.

Mr. O'CONNELL. Peter F. Tague written in.

A. 928, Peter F. Tague; 930, Tague, 929, not counted.

Mr. O'CONNELL. A sticker with cross not opposite.

A. 920, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 922, Peter F. Tague; 921, no vote.

Mr. O'CONNELL. A sticker with cross against it and then a different kind of cross against name of Fitzgerald.

Mr. BROGNA. I object.

Notary BERMAN. That may stand.

A. 923, Tague; 924, Tague; 926, Peter F. Tague; 927, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. 928, not counted.

Mr. O'CONNELL. A sticker with no cross.

A. 929, Peter F. Tague; 931, Tague; 932, Tague; 933, Tague; 934, not counted.

Mr. O'CONNELL. Peter F. Tague written in under Senator and crossed.

A. 935, Peter F. Tague; 936, Tague; 937, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 940, Tague; 941, Tague. You will notice the seals on this are intact. Ward 3, precinct 1. Exhibit 189, for Tague; 188, Tague; 190, Tague; 191, no vote.

Mr. O'CONNELL. Peter F. Tague written in, no cross.

A. 192, John F. Fitzgerald.

Mr. O'CONNELL. The cross was against Fletcher.

Mr. BROGNA. I object to that comment.

Notary BERMAN. That may stand.

A. 193, Tague; 194, Fitzgerald.

Mr. O'CONNELL. This ballot was marked. Note that the initials of the man who filed it are J. L. B.

A. 195, Tague; 199, Tague; 198, Tague; 197, not counted.

Mr. O'CONNELL. Written Peter P. Tague, with a cross.

A. 196, Tague; 202, Tague; 201, Tague; 200, no vote.

Mr. O'CONNELL. Name written Peter F. Tague, no cross.

A. 205, no vote.

Mr. O'CONNELL. Two stickers on there, one of them partly torn off and two crosses.

A. 203, not counted.

Mr. O'CONNELL. A sticker without a cross. The sticker very loose, just being barely held on.

A. 204, counted for Peter F. Tague; 208, Tague; 207, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 206, John F. Fitzgerald.

- Mr. O'CONNELL. In that case the cross was against the name of Fletcher.
A. 216, Tague; 215, Tague; 214, not counted.
- Mr. O'CONNELL. A sticker for Tague not crossed.
- Mr. BROGNA. In the space in the center.
A. 213, Tague; 212, no vote.
- Mr. O'CONNELL. A sticker for Tague crossed and then a cross in a different handwriting.
A. 211, Tague; 210, Tague; 209, Fitzgerald.
- Mr. O'CONNELL. A cross against Fletcher.
A. 221, Tague; 220, not counted.
- Mr. O'CONNELL. A sticker without a cross.
A. 219, not counted.
- Mr. O'CONNELL. A sticker without a cross.
A. 218, Tague; 217, Tague; the seal on this box is also unbroken. Ward 3, precinct 2. 330, Peter F. Tague; 329, Peter F. Tague; 328, Peter F. Tague; 331, Tague; 332, Tague; 333, Tague; 334, not counted.
- Mr. O'CONNELL. A sticker without a cross.
A. 335, Tague; 336, Tague; 337, not counted.
- Mr. O'CONNELL. A sticker with a cross against the sticker.
A. 338, Tague; 341, Tague; 340, Tague; 339, Tague; 344, Tague; 343, Tague; 342, Tague; 347, Tague; 346 Tague; 345 Tague. The seal on that is intact. Precinct 3, ward 3. Exhibit 430, Tague; 429, Tague; 428, Tague; 427, Tague; 426, Tague; 425, Tague; 424, Tague; 423, Tague; 422, Tague; 421, Tague; 420, no vote.
- Mr. O'CONNELL. Peter F. Tague written in, not crossed.
A. 419, not counted.
- Mr. O'CONNELL. Peter F. Tague, Boston, written in and crossed, under designation of senator.
A. 418, Tague; 417, Tague; 416, Tague; 415, Tague; 414, Tague; 413, Tague; 412, Tague; 411, Tague; 408, Tague; 409, not counted.
- Mr. O'CONNELL. Peter F. Tague sticker without a cross.
A. 410, no vote.
- Mr. O'CONNELL. A sticker without a cross against it under the term councillor.
A. This seal also is intact. Precinct 4, ward 3. Exhibit 630, Tague; 626, not counted.
- Mr. O'CONNELL. A sticker for Tague not marked.
A. 627, Tague; 628, Tague; 629, Tague; 625, not counted.
- Mr. O'CONNELL. Peter F. Tague, of Boston, written in, and no cross.
A. 624, Tague; 623, not counted.
- Mr. O'CONNELL. A sticker without a cross and sticker loose.
A. 622, Tague; 621, not counted.
- Mr. O'CONNELL. A sticker for Tague without a cross.
A. 620, Tague; 619, not counted.
- Mr. O'CONNELL. A sticker for Tague without a cross.
A. 618, Tague; 617, Tague; 616, Tague; 615, not counted.
- Mr. O'CONNELL. A sticker for Tague without a cross.
A. 614, Tague; 613, Tague; 612, Tague; 611, not marked.
- Mr. O'CONNELL. A sticker for Tague without a cross.
A. 607, Tague; 608, Tague; 609, Tague; 610, Tague. This seal also intact. Ward 3, precinct 5; 681, Tague; 680, Tague; 679, Tague; 678, Tague; 677, Tague; 676, Tague; 675, not counted.
- Mr. O'CONNELL. A sticker for Tague without a cross.
A. 674, not counted.
- Mr. O'CONNELL. A sticker for Tague with a cross on part of the sticker.
A. 673, Tague 672, John F. Fitzgerald.
- Mr. O'CONNELL. With the cross obliterated.
A. 671, Tague; 670, not counted.
- Mr. O'CONNELL. A sticker for Tague not marked.
A. 669, Tague; 668, Tague; 667, Tague; 666, Tague; 665, not counted.
- Mr. O'CONNELL. A sticker for Tague; no cross.
A. 664, Tague; 663, Tague; 662, Tague; 660, Tague; 659, Tague; 657, Tague; 656, not counted.
- Mr. O'CONNELL. A sticker for Tague not crossed.
A. 655, Tague; 653, Tague; 652, not counted.
- Mr. O'CONNELL. Sticker torn across.
A. 651, not counted.

Mr. O'CONNELL. A sticker for Tague not crossed.

A. 650, not counted.

Mr. O'CONNELL. The word Tague written in after the word Congressman

A. 649, Tague; 648, Tague; 647, not counted.

Mr. O'CONNELL. A sticker for Tague not crossed.

A. 646, Tague; 645, Tague; 644, Tague; 643, Tague; 642, Tague; 641, not counted.

Mr. O'CONNELL. Peter F. Tague, of Boston, with a cross against it written under councillor's designation.

A. 640, Tague; 639, Tague; 638, Tague; 637, Tague; 636, Tague; 635, Tague; 631, Tague; 632, Tague; 633, Tague; 634, not counted.

Mr. O'CONNELL. A sticker for Tague not counted and not crossed.

A. 658, Tague; 651, Tague; 654, no vote.

Mr. O'CONNELL. A sticker for Tague and cross opposite sticker. On 661 the sticker is very loose.

A. Observe that the seals on this box are intact. Ward 3, precinct 6. Exhibit, 1003, Tague; 969, not counted.

Mr. O'CONNELL. A sticker for Tague with a cross opposite under councillor.

A. 978, Fitzgerald.

Mr. O'CONNELL. With the cross obliterated.

A. 962, Tague; 1000, Tague; 1001, Tague; 1002, Tague; 1004, no vote.

Mr. O'CONNELL. A sticker for Tague crossed and also a cross of a different kind for Fitzgerald.

A. 1005, Tague; 1006, Tague; 993, Tague; 994, Tague; 995, Tague; 996, Tague; 997, Tague; 980, not counted.

Mr. O'CONNELL. Sticker for Tague not crossed.

A. 985, Tague; 986, not counted.

Mr. O'CONNELL. Peter F. Tague written down at bottom of ballot and crossed and not counted.

Mr. MANCOVITZ. Under the designation, "Registrar of probate."

A. 987, Tague; 988, Tague; 989, Tague; 990, Tague; 991, Tague; 992, Tague; 973, Tague; 974, Tague; 975, Tague; 976, Tague; 977, Fitzgerald.

Mr. O'CONNELL. Cross against Fitzgerald badly obliterated.

Mr. BROGNA. I object. It is not a description of the ballot.

Notary BERMAN. Let it stand, together with the objection.

A. 979, not counted.

Mr. O'CONNELL. Peter F. Tague, Boston, written in and two crosses.

A. 980, Tague; 981, Tague; 982, Tague; 983, Tague; 963, Tague; 964, Tague; 965, no vote.

Mr. O'CONNELL. A sticker for Tague crossed and cross against Fletcher.

A. 969, Tague; 970, Tague; 971, Tague; 972, Tague; 959, Tague; 960, Tague; 961, Tague.

Mr. O'CONNELL. I would like to have Mr. Murphy sworn.

Notary BERMAN. Will you take your hat off?

Mr. MURPHY. I want to make a statement. When I get my subpœna, according to the statutes, section 114, I have five days in which to answer it and under oath Congressman Peter F. Tague made certain statements reflecting on my character as a member of the Boston election commission and until such time as I have a chance or opportunity to read the testimony of Mr. Tague I do not propose to answer the subpœna until such time as the law requires me. I will be ready to answer any questions five days after the summons is issued.

Notary BERMAN. Are you aware of the fact, Mr. Murphy, that on behalf of himself and his colleagues Mr. Finigan accepted service of the subpœna?

Mr. BROGNA. Mr. Finigan had no authority to accept service for his colleagues.

Mr. MURPHY. I will say, the Revised Statutes of the United States, section 114, requires that service of subpœna—that each witness shall be duly served with a subpœna by a copy thereof delivered to him or left at his usual place of abode at least five days before the attendance of the witness is required. I will answer no summons and answer no questions until that time.

Mr. HARRINGTON. Let me make this suggestion. I think Mr. Commissioner has a right to come here at any time and I also think he has a right to read that testimony.

Notary BERMAN. I will say this: Mr. Murphy may appear before these hearings at any time and I will see that he is properly sworn and put on the witness stand and allowed to make any statement.

Mr. BROGNA. I want to add that Mr. Murphy does not have to appear unless he is properly summoned and the summons left at his last known place of abode.

Mr. HARRINGTON. After testifying all day, it is a little late to object.

Mr. BROGNA. He has not testified all day.

Mr. O'CONNELL. Let us straighten this out. Mr. Murphy, you have been acting here as a commissioner this afternoon and have done the best you could in trying to expedite matters and in trying to give us the numbers of the exhibits and how these exhibits were marked. That is true, isn't it?

Mr. MURPHY. I relieved Mr. Finigan, who was tired. I told him I would read the exhibit numbers for him.

Notary BERMAN. Will you proceed?

A. Exhibit 1137, Tague; 1136, Tague; 1135, Tague; 1134, Tague; 1140, Tague; 1139, not counted.

Mr. O'CONNELL. A sticker without a cross.

A. 1138, Tague; 1143, Tague; 1142, Tague; 1141, not counted.

Mr. O'CONNELL. A sticker with a cross against it and also a cross of a different kind against Fletcher's name.

A. 1144, Tague; 1145, Tague; 1146, Tague; 1147, Tague; 1148, Tague 1154, Tague; 1153, Tague; 1152, Fitzgerald; 1151, Tague; 1150, Tague; 1149, not counted.

Mr. O'CONNELL. Peter F. Tague written in. No cross.

A. 1160, Tague; 1159, Tague; 1158, Tague; 1157, Tague; 1156, Tague; 1165, Tague; 1133, Tague.

Mr. BROGNA. Now, I want to have included in the record that the only thing done by either Commissioner Finigan or Commissioner Murphy during the day's hearing was to read off the number of the exhibits and for whom counted and anything else taken by the stenographers was comments and conclusions and not any statement made by either of the commissioners.

Notary BERMAN. What is the use of discussing this? The testimony may stand and the evidence given may stand and the objection of counsel for Mr. Fitzgerald may be noted.

Mr. O'CONNELL. I want to have this noted against Mr. Brogna's statement because we put Commissioner Finigan on the stand and also Commissioner Wasserman and both of them testified, or at least Commissioner Wasserman testified he went with Commissioner Finigan to the vault this morning and that Mr. Wasserman did not go near it until 3.20 when he was summoned; that he testified that he was away from the room and although he came back to the room several times he did not go near the vault.

Notary BERMAN. This hearing is now adjourned until 9.30 to-morrow morning at the Federal Building.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of their knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I hereby certify that the foregoing in this volume, containing about 78 pages, together with the notice of content and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague, v. John F. Fitzgerald beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

Mrs. JOHN CUNEO.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Emma Cuneo.

Q. Where do you live?—A. 1072 Bennington Street, Orient Heights.

Q. East Boston?—A. Yes, sir; East Boston.

Q. You are the wife of John Cuneo?—A. Yes, sir.

Q. Have you any children?—A. Two.

Q. How old are they?—A. One is 15, the girl, and the little boy is 6 years on next month.

Q. Do they go to school?—A. Yes, sir.

Q. Where does the little girl go?—A. She goes to the Girls' Trade School, on Massachusetts Avenue, and the little boy goes to the Blackington School.

Q. Where is the Blackington School?—A. Orient Heights.

Q. In East Boston?—A. Yes, sir.

Q. Over near where you live?—A. Yes, sir.

Q. What is your husband's business?—A. Works as saloon clerk.

Q. What saloon?—A. F. Cosolito, North Washington Street.

Q. Corner of Washington and Causeway Street?—A. Yes, sir.

Q. That's over in Ward 5, and how long have you been living at your present address?—A. I believe, over 20 years.

Q. How old is your husband?—A. I think 44 or 45; I'm not sure.

Q. And he lives with you, of course?—A. Yes, sir.

Q. And has lived with you there during all the time that you have lived on Bennington Street, East Boston?—A. Yes, sir.

Q. Do you know where your husband votes?—A. No, sir; I don't. I think he votes in North Bennet Street.

Q. North Bennet Street; that's Ward 5 at the North End?—A. I don't know what ward it is.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. BROGNA:

Q. Mrs. Cuneo, have you ever gone with your husband at any time when he has gone in to vote?—A. Have I ever gone with him?

Q. Yes.—A. No, sir.

Q. Then you don't know of your own knowledge whether your husband voted on North Bennet Street or elsewhere, do you?—A. I know he stayed out about a week or two around the registration.

Q. What do you mean by that?—A. Stayed out about a week or so without coming home.

Q. When did he do that? A. Well, at the time of registration.

Q. When was that?—A. I don't know.

Q. Is it customary for him to be at home around April 1?—A. Be at home around April 1?

Q. Yes.—A. Sometimes.

Q. Now, do you know, Mrs. Cuneo, of your own knowledge, where your husband votes, or what?—A. No; I don't.

Q. Somebody else told you?—A. No; I don't.

Mr. BROGNA. That's all.

FEBRUARY 26, 1919.

ABRAHAM FINKELSTEIN, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your name, Mr. Finkelstein?—A. Abraham Finkelstein.

Q. How old are you, Mr. Finkelstein?—A. Thirty-six.

Q. Where do you live?—A. 77 Savin Street, Roxbury.

Q. That's in Ward 16?—A. I couldn't tell you what ward it is in.

Q. But it is in Roxbury?—A. Yes, sir.

Q. And 3 or 4 miles away from Ward 5?—A. Oh, believe so.

Q. And where do you vote from?—A. Down at a lodging house, 75 Causeway Street.

Q. And why do you vote from a lodging house, 75 Causeway Street?—A. I have always voted in the West End all my life. I don't suppose that's any hinderance.

Q. How did you happen to do it that way?—A. The people ask me to vote there, and put your name on the list; something like that.

Q. By "people" you mean whom?—A. Well half a dozen in particular. When it comes certain times, they ask you if you are still going to vote; they simply take care of you.

Q. Who are they?—A. I don't believe I know any of them by name, to call them by name.

Q. Members of the Hendricks Club?—A. I suppose they are.

Q. They took care of you that way?—A. Yes, sir.

Q. As a matter of fact, you have lived out there with your mother 10 years?—
A. Ten years.

Q. And this is the practice, you have continued your name in this place all this time?—A. Yes. I go down there and they tell me where they will put me. I don't go disputing about it or bothering about it.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. BROGNA:

Q. What is your business, Mr. Finkelstein?—A. Teamster.

Q. Have you ever asked your mother to give your name at 77 Savin Street, or any other place, the 1st of April; yes or no?—A. I told her not to give it; no; that I'd be taken care of down in the West End.

Q. Where did you sleep at the 1st of April?—A. Well, I work nights.

Q. Do you sleep in the day?—A. I do when I get home.

Q. Don't you sleep?—A. I had a couple of hours' sleep this morning. I get a little sleep that way, see.

Q. And April, last of April last year, where did you get a couple of hours' sleep?—A. Well—

Q. What I am trying to get at, you sleep when you go home in Roxbury; where do you consider your voting residence to be, Mr. Finkelstein?—A. 75 Causeway Street.

Q. And you ask people there to preserve that as your voting residence?—A. I don't believe I ever asked them; I don't believe I did ask them. They simply say they will put you here or put you there, and that's all there is to it.

Q. Have you been summoned to appear here?—A. There was a summons—

Q. Yes or no?—A. Yes, sir; summons left at the house.

Q. Have you got the summons with you?—A. No.

Q. Handed to you at any time?—A. I think it was handed to my mother. I was in bed at the time.

Q. Have you seen it?—A. Yes; I read it this morning, to look at the date.

Q. You didn't take the summons along with you?—A. Why, no.

Q. How did you know where to come?—A. I asked the elevator man where this fight was on and he described the place.

Q. You asked the elevator man?—A. Why, yes.

Q. Have you talked with anyone else in regard to this case since you received your summons?—A. I believe I asked John I., who summoned me. I wanted to get a little idea who brought me into it.

Mr. BERMAN. John I?

The WITNESS. Mr. Fitzgerald. He's the only man I spoke to.

Q. You talked with him?—A. I simply asked him who summoned me.

Q. Have you talked with anyone else?—A. Not a soul.

Q. Not a soul?—A. No.

Q. Have you talked with any of Mr. Tague's attorneys at any time?—A. Only here, just a couple of minutes ago; called me over and asked me what my name was; that's all.

Q. And before that time you haven't talked with anyone regarding your voting residence on Causeway Street?—A. Not a soul.

Q. Not a soul?—A. No; not a soul.

Mr. BROGNA. That's all.

Redirect examination by Mr. O'CONNELL:

Q. This John I. you refer to is Fitzgerald?—A. Fitzgerald.

Q. And he is the one that said he would take care of you?—A. I simply asked him when I came in.

Q. No; I mean in reference to placing your name?—A. No.

Q. When you go in there do they give you a list and tell you who to vote for?—A. No; they don't do that. They give you some circulars.

Q. They give you some circulars?—A. You use your own judgment, of course.

MARGARET A. McKINNON, recalled.

ABRAHAM FINKELSTEIN.

Redirect examination by Mr. O'CONNELL:

Q. You testified yesterday?—A. Yes, sir.

Q. And did you have any conversation with Mr. Fitzgerald here any time during this hearing?—A. I asked Mr. Callahan—I got here early, and I told him I had got to go to court and I couldn't wait. It was then 10 o'clock, and

the summons said 9.30; and I told him I knew nothing about Mr. Tague's or Mr. Fitzgerald's election, and I didn't see why I was summonsed. He said, "Well, you go to court if you want to, and come back if you want, and don't come back if don't want to."

Mr. O'CONNELL. That's all.

Recross examination by Mr. BROGNA:

Q. Where did you have that conversation?—A. Right out there, outside that door.

Q. Anyone else present?—A. Two men.

Q. Did they hear it?—A. I don't think so.

Q. You approached him—he didn't approach you?—A. No; I approached him.

Q. You told him you had some important business elsewhere?—A. Yes.

Mr. O'CONNELL. How did you happen to tell me this story in regard——

The WITNESS. Because I wanted my two days' witness fees. I spent two days here.

Mr. O'CONNELL. You don't know me?

The WITNESS. I never saw you before in my life.

By Mr. MANCOVITZ:

Q. You said Mr. Callahan said you had to be in court?—A. He asked me when I got this summons. I am a social worker.

Mr. HARRINGTON. I object.

Mr. MANCOVITZ. Do you object?

Mr. HARRINGTON. No; I withdraw my objection.

Q. You came here with a summons?—A. Yes, sir.

Q. You found people in the room?—A. Not anyone.

Q. What time did you get here?—A. I got here at half past 9.

Q. And waited until 10 o'clock?—A. About 10.

Q. And Mr. Callahan was standing outside?—A. Yes, sir.

Q. And he asked you what you wanted?—A. Yes, sir.

Q. What did he ask you?—A. He asked me if I got a summons. He said, "When did you get it—Friday?" I said, "Friday." He said, "Friday, Saturday, Sunday, Monday," he said, "they should have given you five days."

Q. If he told you the truth, that you should receive notice of five days and you had not received legal notice, you would not have to come here to testify. You told him you got the summons Friday?—A. Yes, sir.

Q. So there was Friday, Saturday, Sunday, and Monday?—A. Yes; and he said I should have five days' notice. He also told me I needn't come back if I didn't want to.

Q. Pardon me. You told him you had only received four days notice, and he told you the law said five days?—A. Yes, sir.

Q. That being the case, he said you needn't come back if you wanted to go anywhere else?—A. No; he said, "Come back if you want to."

Q. He told you not to come back if you didn't want to. He didn't advise you to come back?—A. No, sir.

Mr. MANCOVITZ. That's all.

Mr. BERMAN. We will adjourn until 2 o'clock sharp.

PATRICK H. PORTER, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Patrick H. Porter.

Q. Where do you live?—A. 1023 Massachusetts Avenue, Cambridge.

Q. And Cambridge is a city outside of Boston?—A. Yes.

Q. And your business?—A. Janitor.

Q. And how long have you lived in Cambridge?—A. Ten years.

Q. And your son Richard Porter lives there with you?—A. Yes.

Q. What is his business?—A. He is a moulder and a core maker.

Q. How old is your son Richard?—A. About 28.

Q. Is he married?—A. No, sir.

Q. You live there in Cambridge with your family and wife—other children?—A. With my children; my wife is dead.

Q. Excuse me; with just your children? He is one of your children?—A. Yes.

Q. Do you know where your son Richard votes?—A. No, sir.

- Q. Did I ask you how old your son was?—A. Yes.
 Q. How old is he?—A. Twenty-eight; about that, I should say.
 Q. Can you describe him as to his build?—A. He is tall and slim.
 Q. About 5 feet 10 or 11 inches?—A. About 5 feet 11, I should say.

Cross-examination by Mr. CALLAHAN:

Mr. Porter, does your son stay away from the house weeks or months at a time if he chooses?—A. He is practically gone for a couple of years, except he comes home once in a while to visit. He ain't living there now at all.

Q. Wasn't living there last April?—A. No.

Q. Wasn't living there the April before that, was he?—A. Yes; I think he was.

Q. You think he was?—A. I think so.

Q. And comes back to see you once in a while?—A. Three times in the last year: one time Thanksgiving day, Decoration day, and I forget the other one.

Q. As I understand it your son isn't living with you, but on holidays like Christmas or Thanksgiving or the Fourth of July he comes back to see his father; is that so?—A. Yes.

Q. And he has been away most of the time?—A. Yes.

Redirect examination by Mr. O'CONNELL:

Q. Your son is a brass moulder at Bath, Me.?—A. Yes; and core maker.

Q. When he isn't working outside of Boston he stays with you at home?—A. He used to stay at home and work along with me until a couple of years ago.

Q. How long has he been in Bath, Me.?—A. Two years.

Q. With the ship works down there?—A. Yes, sir.

Q. Do you know if your son ever voted in ward 8 or ward 5?—A. I don't believe he ever voted in either one, so far as I know.

Q. Do you know that your son ever voted in Cambridge?—A. I don't think so. To the best of my opinion he has never voted at all in Cambridge, but I am not sure about that.

Q. But you are quite sure about the other?—A. What is that?

Q. About ward 5 and ward 8?—A. I don't know anything about that. What do you mean?

Q. Has he ever voted in Boston?—A. He never had any right to vote in Boston. He never lived in Boston.

By Mr. CALLAHAN:

Q. Have you ever lived in Boston?—A. I lived in Charlestown some time ago.

Q. Ten years ago?—A. About three years ago.

Q. And before your son was born?—A. Yes, sir.

Mr. CALLAHAN. That is all.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss*:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of their knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss*:

I hereby certify that the foregoing in this volume, containing about 12 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919. Exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

WILLIAM A. MURRAY.

Direct examination by Mr. O'CONNELL:

Q. Your name is William A. Murray?—A. Yes, sir.

Q. Where do you live?—A. 340 Saratoga Street.

Q. You are a voter in East Boston?—A. Yes, sir.

Q. And you were interested in Mr. Tague's campaign?—A. Yes, sir.

Q. And had your name signed to his literature?—A. Yes, sir.

Q. And you were interested in seeing him win?—A. Very much.

Q. Directing your attention to the day after election, did you on November 6 meet Capt. Edward Gray, who was on the stand the other day?—A. I saw him in Maverick Square.

Q. Yes; who was with him?—A. Representative Ahearn and two or three other gentlemen.

Q. And how near were you standing to them?—A. About from here [indicating] to that chair there [indicating].

Q. That would be about 4 or 5 feet away?

Mr. CALLAHAN. No; that's 6 feet.

A. About the width of the sidewalk; they were on the corner of the curbstone—

Mr. CALLAHAN. No; give it in feet.

A. About 4 feet.

Q. Yes; from there [indicating] to there [indicating]. What were they doing?—A. Talking amongst themselves.

Q. What did you notice particularly?—A. Why, I just noticed they were talking there at the time. They apparently started to leave each other, and they stepped off the curbstone and Capt. Gray slapped Bill Ahearn on the back and said, "You did great work." And Ahearn says, "Thank you, Captain; and, by the way," he says, "here's some of it now," and passes him stickers; and he turned around and saw me. "Hello, Bill," he says, "here's what licked your man."

Q. He said, "here's what licked your man"?—A. He gave him two of them.

Q. What?—A. Stickers like those we were using, somewhat different.

Q. Showing you Exhibit 10, is that one of the stickers he handed to you?—A. Yes; he gave me two of these.

Q. What did you say when he handed them to you?—A. I said, "Thanks, Bill; that's very good evidence." He says, "Give me them back." I says, "Oh, no." When he passed them to Capt. Gray, I noticed he gave him a handful, and some dropped on the street, and I walked out on to the street and picked them up and looked at them. I probably picked up eight or nine on the street that dropped off the bunch given to Capt. Gray.

Q. What did he say when he asked you for them?—A. "You give back the stickers."

Q. What did you say?—A. I said, "Oh, no; they are very good evidence."

Q. What answer did he make then?—A. "Oh, be a good fellow," something like that.

Q. What did you say?—A. "No."

Q. And you kept them, did you?—A. Yes, sir.

Q. What did you do with them?—A. I turned them over to Mr. Tague the next day and asked him if he realized what they were putting over on him, a counterfeit sticker without any glue and smaller printing.

Q. You were interested in the Tague fight?—A. Very much.

Q. Did you see any stickers given out by the Tague people that looked anything like that [indicating]?—A. Never saw one until that night.

Q. Showing you Exhibit 9, whether or not that was the kind of sticker given out by the Tague people?—A. Yes, sir.

Q. Exhibit 9 differs from that because there is no gum on the back?—A. The printing is all big, and there is no gum on that, and no space to mark the cross.

Q. Have you told us all that took place at that time?—A. I believe so. I was talking with the fellow at the fire house across the street. I met him, and gave him some Tague stickers a couple of weeks before that, and I says "Look at this."

Q. Who is Representative Ahearn?—A. Representative of ward 2, East Boston.

Q. What part did he take in the Tague-Fitzgerald contest?—A. What part did he take in it?

Q. Yes.—A. Very active for Mr. Fitzgerald; stumped around the district.

Q. Very prominent Democratic politician in that part of Boston?—A. Why, I don't know how prominent. He was elected to the house two years, a young fellow.

Q. You say he presided at Fitzgerald rallies?—A. He spoke for him.

Q. He spoke for him?—A. In the open air; I don't know as he presided; he spoke for him.

Q. And very active in the Fitzgerald candidacy?—A. Very much.

Mr. O'CONNELL. You may inquire.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. Murray, where do you live?—A. 340 Saratoga Street, East Boston.

Q. How old?—A. Thirty-four.

Q. What's that?—A. Thirty-four.

Q. Where do you work?—A. I'm not working just now.

Q. When did you last work?—A. The last day of the year.

Q. What's that—the last day of this year?—A. Last year.

Q. That was the 31st of December, and you were working for Mr. Tague?—A. No, sir; never worked for Mr. Tague.

Q. For whom did you work?—A. Mr. Dooley, undertaker in East Boston.

Q. How long did you work for Mr. Dooley?—A. A year and a half.

Q. Where is Mr. Dooley's place of business?—A. 135 London; his business.

Q. What did you do for Mr. Dooley?—A. Undertaking and—

Q. Are you a licensed undertaker?—A. No, sir.

Q. What do you mean by undertaking if you are not a licensed undertaker?—A. You know what undertaking is?

Q. Just what were your duties?—A. Just assisted him.

Q. By that you mean you worked there regularly?—A. Yes, sir.

Q. Every day?—A. We wouldn't work every day.

Q. Every night?—A. We wouldn't work every day.

Q. I mean you were on the job every day?—A. Yes, sir.

Q. Be on the job at his place of business every day?—A. Yes, sir; is business came in.

Q. And, if necessary, be there nights?—A. All night; is that what you mean? Mean work all night?

Q. No; I mean, if necessary, you stayed there?—A. On his call; yes.

Q. During primary election and later election you were working for Mr. Dooley?—A. Yes, sir.

Q. Working there every day?—A. I told you before.

Q. Answer again. Worked there every day?—A. Yes, sir.

Q. You were interested in the fight for Mr. Tague for Congress?—A. Very much.

Q. Did that interfere with your work as an undertaker?—A. No, sir.

Q. You signed all the literature sent out by Mr. Tague, didn't you?—A. Yes, sir.

Q. And did you take charge of that printing yourself?—A. What do you mean—brought in to the printers?

Q. Yes. Did you arrange for the printing?—A. I didn't arrange for the printing; no.

Q. Your signature was simply signed to it, that's all?—A. I helped Mr. Kane, and I prepared it, and I signed it.

Q. I understand all the stuff that went out over your signature was either prepared by you or helped prepared; that's so?—A. Yes, sir.

Q. All the advertising that went out in the newspapers you helped prepare?—A. Yes, sir.

Q. You helped prepare it in the engine station?—A. No, sir.

Q. Where?—A. Tague headquarters, 18 Tremont Street, with Mr. Kane.

Q. Tague headquarters?—A. Yes, sir.

Q. It took a great deal of time to get it out, particularly the ads in the newspapers?—A. Took some of it.

Q. Take much of your time?—A. Took some of it.

Q. How much time—just to sign your name?—A. Oh, no; probably a couple of hours a day.

Q. Couple of hours a day. So you reported a couple of hours a day to Mr. Tague's headquarters? For how long did you do that?—A. During the entire campaign.

Q. And how long was that—several months?—A. Yes.

Q. This was two hours a day; and you gave every night to the campaign, would you?—A. Mostly.

Q. Were you very much interested in Mr. Tague's campaign?—A. Very much.

Q. And you worked for him in East Boston, didn't you, where you live?—A. What do you mean by working?

Q. Don't you know what I mean? Did you do any actual work soliciting?—A. Asked for votes; yes.

Q. And went to the polls for him?—A. Yes, sir.

Q. At election down at the polls?—A. Yes, sir.

Q. All day?—A. Most all day.

Q. What ward?—A. Precinct 5, ward 2.

Q. Isn't that where Mr. Ahearn was active that day?—A. No, sir.

Q. What precinct was he at that day?—A. What they call the first, the second, over the tracks.

Q. You were at precinct 5 ward 2 all that day?—A. I didn't say all that day.

Q. What part of the day did you work there?—A. Most of the day.

Q. Most of the day?—A. Got there about 10 minutes of 6 in the morning. I went off about 10 o'clock and had something to eat, went to dinner at 1, then came back in the afternoon.

Q. Except for lunch, you were there all day?—A. Yes, sir.

Q. You saw the Fitzgerald workers there that day?—A. I believe there was some there.

Q. Didn't you know there were some there?—A. They weren't advertising themselves very strong.

Q. I understood you just told Mr. O'Connell in your direct examination that when you say Mr. Ahearn and Capt. Gray talking together, and that immediately after you secured one of those pasters?—A. Two of them.

Q. That that was the first time you ever saw them?—A. Them pasters; yes, sir.

Q. You didn't see anybody using them at the polls, did you?—A. No, sir; I should say not.

Q. Now, sir, you thought it was very important to get one of those pasters, didn't you?—A. I sure did.

Q. And you sort of nosed around until you did get a couple?—A. What?

Q. You sort of nosed around until you got a couple of these pasters?—A. No, sir.

Q. You stood where you could listen all the time?—A. No, sir.

Q. Didn't you have your ear near them?—A. No, sir.

Q. How far were you away from them?—A. Four feet.

Q. As far as this?—A. You moved away.

Q. How far do you call this?—A. About 6 feet.

Q. You were 6 feet away from them?—A. I was.

Q. Yes. They weren't talking to you?—A. No, sir.

Q. They didn't show any desire to talk to you, did they?—A. Not at that time.

Q. You didn't want to talk with them, did you, particularly?—A. Nothing to talk about.

Q. But you listened?—A. No, sir; I told you no.

Q. You heard what they said?—A. No, sir; not at that time.

Q. Didn't you hear what they said?—A. I heard Gray when he stepped from the curbstone, he raised his voice, and said, "You did good work, Bill."

Q. And Bill said, "Thank you," that's so?—A. Yes, sir.

Q. And then Bill showed him a couple of these stickers?—A. Showed him a good handful and said, "By the way, Captain, here's some of them."

Q. And then you took some of them?—A. No.

Q. You got some of them?—A. He turned around to me and says, "Hello, Bill," he was surprised when he saw me, and he says, "This is how your man was licked," Then gave me two stickers.

Q. And gave you two stickers?—A. Yes, sir. And I picked up some more that were dropped.

Q. And then he wanted them back?—A. The two he gave me.

Q. And you said, "No; that's very good evidence?"—A. Exactly.

Q. That was very good evidence, and you thought it good evidence, didn't you?—A. I thought so, coming from where it did.

Q. You didn't keep any of those stickers yourself?—A. I turned them over to Mr. Tague.

Q. How many did you turn over to Mr. Tague?—A. Seven or eight.

Q. When did you turn them over?—A. The next day.

Q. Where did you turn them over?—A. Tague headquarters.

Q. At what time?—A. Ten or 11 o'clock.

Q. How many did you give Mr. Tague?—A. I told you seven or eight.

Q. Now, sir; do you want to tell me just what kind of a sticker it was?—A. The sticker had the name Peter F. Tague for Congress on it.

Q. Yes.—A. And a plain piece of white paper, absolutely no glue on the back of it: the printing was very much smaller than we had on ours; no capital letters at all.

Q. Weren't you curious enough to keep any of those stickers for yourself?—A. Curious enough to keep them for yourself?

Q. Didn't you want to show them to somebody beside the Congressman?—A. I showed them to somebody that night.

Q. You thought the Congressman should have them all?—A. Yes, sir.

Q. You gave him all of them?—A. Yes, sir; certainly.

Q. Never kept one for yourself?—A. No.

Q. Where was this talk?—A. Corner of Maverick Street and Maverick Square.

Q. At what time was it?—A. 11 o'clock, I think.

Q. What night was it?—A. The night following election.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. That's all.

WILLIAM A. MURRAY.

EDWARD J. O'BRIEN:

Direct examination by Mr. O'CONNELL:

Q. What is your full name, Mr. O'Brien?—A. Edward J. O'Brien.

Q. Where do you live?—A. 160 Falcon Street, East Boston.

Q. You are a fireman connected with the Protective Department of the City of Boston?—A. Yes, sir.

Q. Do you know the last witness, Mr. Murray?—A. Yes, sir.

Q. Do you recall two days before election meeting him?—A. Not two days; I seen him the night after election day.

Q. When did you meet him?—A. The night right after election.

Q. What time?—A. I should say between quarter of 11 and quarter past 11.

Q. Where did you meet him?—A. Right at the First National Bank, over at the corner of Maverick and Meridian, practically Maverick Square.

Q. What did he say to you?—A. "Well," he says, "our men wan't elected." I says, "Yes." He says, "Here's some stickers." I says, "Those ain't Peter's stickers; come on down to the quarters. I've got some stickers. They don't look like those at all." We went down to quarters, just two weeks before election day. Mr. Murray had some stickers and gave me 200, and I had about a hundred left. I got the package and the envelope, and I came down and we looked over the stickers, and Mr. Murray's had little smaller print, no gum on the back, and Mr. Tague's were bigger print and gum on them, everyone I had in the package.

Q. Were the stickers he showed you—I will show you Exhibit 10; would you say whether or not they were like that [indicating]?—A. That's the sticker he had.

Q. The sticker he had just gotten?—A. Yes, sir. Smaller print, letters, and no gum on the back.

Q. Exhibit 9 was the regular sticker used?—A. That's the sticker that came from Tague headquarters.

Q. That's the sticker used by the Tague people?—A. Yes, sir.

Mr. CALLAHAN. That's all.

Cross-examination by Mr. CALLAHAN:

Q. How long have you been a fireman?—A. In the business a year ago last fall; member of the Boston Protective Department; we ain't called firemen.

Q. You're not a real fireman?—A. No, sir.

Q. Where do you work, Mr. ——. A. Headquarters, 40 Purchase Street.

Q. What are the hours of employment?—A. Same as Boston firemen, one day off in five, 24 hours a day, outside of meal hours, seven days a week.

Q. One day off in five, and the other days you worked 24 hours, except when you go to meals?—A. Yes, sir.

Q. What hours do you go to meals?—A. An hour and a half.

Q. Your particular hours?—A. I can not tell you.

Q. Why not?—A. Might be on the first hour, might be on the second hour, might be on the last.

Q. Don't you have regular hours each week?—A. No, sir; change around every day.

Q. You change around every day?—A. Yes, sir.

Q. Let's take last week, what were the hours for breakfast?—A. My hours for breakfast, the last out.

Q. The last out; what do you mean by that?—A. I was the last out all this month and last month.

Q. What do you mean by the last out?—A. Quarter past 9 until half-past 10.

Q. Breakfast from quarter past 9 until quarter past 10?—A. Half-past 10.

Q. That's a pretty regular hour.—A. Yes, sir.

Q. Your hour for dinner, what was that last week?—A. My hour for dinner, I had the privilege of taking that any time I wanted it.

Q. What was your hour for last week?—A. My hour for dinner last week, I was privileged to take from quarter-past 9 in the morning until 9 o'clock at night.

Q. For dinner?—A. It didn't make no difference.

Q. For dinner?—A. Yes, sir.

Q. I thought you told me your hour for breakfast was from quarter past 9 until half past 10.—A. I did, but I told you——

Q. You told me a minute ago from quarter past 9 until half past 10 was your hour for breakfast?—A. I told you I had from half past 10, quarter past 9 until half past 10. I have been out on ball tickets and take my dinner and breakfast together.

Q. You get an hour for dinner?—A. An hour and a quarter.

Q. All right. For supper an hour?—A. Yes, sir.

Q. What time do you have for supper?—A. Liable to eat supper at 9 o'clock, liable to come back at half past 9 at night, liable to go at quarter past 7 and to come back at half past 8.

Q. You are a private in that department?—A. Yes, sir.

Q. You pick your hours that way?—A. No, sir: I get my hours from the captain.

Q. Well, except for the fact you might be selling ball tickets, you have regular hours for your meals?—A. Yes, sir.

Q. How long have you been out on ball tickets?—A. Since the 6th day of January.

Q. How long have you been selling?—A. I have been selling two weeks. They are behind and we have got to make our account.

Q. When is that?—A. The ball is to-morrow night. We've got to make our account some time next week.

Q. Prior to January, when you were not selling tickets, what were your hours when you were not on meals?—A. I'm in quarters and I might be sent out. I might be the rest of the day, and there might be two days I was not in quarters.

Q. Can you tell us what your hours were on the 5th of November last year?—A. No, sir; I can not.

Q. Can you tell us about what time you had supper?—A. No, sir; I can not.

Q. Can you tell us the last hour you had supper?—A. No, sir; I can not.

Q. Why not?—A. As I told you, I might be at the station two days, one day in East Boston, and one day in Charlestown, and when I'm in East Boston and Charlestown I take my hour or meal hours just as it suits me and notify headquarters and it's all right. I take my meal hours any time.

Q. All right. On this time you talked with Mr. Murray where—— A. East Boston.

Q. Where were you stationed?—A. Paris Street House. Boston Fire Department, Ladder 2.

Q. How long were you there?—A. From 9 o'clock that morning until 10 o'clock the following morning.

Q. That is, 9 o'clock on the 6th of November until 10 o'clock on the 7th of November?—A. It was 9 o'clock that morning and until 10 o'clock the following morning.

Q. You were stationed at that house?—A. Yes, sir.

Q. Where did you talk with Murray?—A. I talked with him at Maverick Square and down at quarters.

Q. What time was it that you talked with him at Maverick Square?—A. I told you between quarter of 11 and quarter past.

Q. What were you doing out at that hour?—A. I came back from a run. There had been a fire reported and I had been up to see in Chelsea Court, a gymnasium, off Paris Street. I had to go up and see if they had any insurance.

Q. Do I understand anybody came to your house that night?—A. No.

Q. Please wait. Somebody came to headquarters and asked for one of your firemen to see about a fire, is that so?—A. No, sir. Somebody went to Ladder 2.

Q. Somebody went to Ladder 2 and Ladder 2 notified your department?—A. No, sir.

Q. How did it come that you went up there?—A. When I am at the station in East Boston, if there's a fire——

Q. How did it come that you went up there?—A. If you won't interrupt me, I will——

Q. Won't you go along, young man?—A. I will, I don't want you to interrupt me every time I go to answer. When I am at the station at East Boston, when a message comes in there that there is a fire, and they come down and want a man to investigate, and the fire people send me up to the house, no matter which location it is. If it's Maverick Street near the fire house, I have to go. Any one that desires a man to go up there to see about the insurance.

Q. I suppose your department keeps a record of them?—A. No, sir; they don't; not of them.

Q. You mean to tell me if your captain sent you out?—A. My captain don't send me out.

Q. Please wait before you answer the question. Have you a captain there?—A. Yes, sir.

Q. He has charge of the house?—A. Yes, sir.

Q. He has charge of you, don't he?—A. No, sir. In East Boston I have charge in East Boston.

Q. You have charge in the East Boston district?—A. Yes, sir.

Q. I understand you go over there without receiving any orders from the captain of the house, or a suggestion from the fire department—should a fire be reported you would go without consulting your captain and investigate it. Is that so?—A. No; I get my orders. We are detailed to go out and cover Charlestown and East Boston.

Q. Do I understand, if there are fire investigations to be made, you make them without talking to the captain about it?—A. I certainly do.

Q. You don't keep any record of it?—A. No, sir.

Q. Don't you make any report to the department?—A. No, sir. If the apparatus goes out of the fire house, we have to.

Q. You mean to say, if you go out of the fire house, you never make a report?—A. If the engine goes out of the house, I call up the Boston house and make a report.

Q. What's the purpose of this investigation if you don't make a report?—A. If I go up, I go up there to see if she had any damage, if her fire was out. I only ask if he had any damage, and if he said "no," why should I make a report of that if there was no damage.

Q. I understand. You make a report if it is damaged?—A. Yes, sir.

Q. Was there a fire there that night?—A. Yes, sir.

Q. And the engines came?—A. No, sir.

Q. Did the chemicals go?—A. No, sir.

Q. Did the wagon go?—A. No, sir.

Q. Do you know who brought that report to you?—A. To me?

Q. Yes.—A. Didn't bring it to me. I was on the floor and the man on patrol says they want a man to go up to Chelsea Court, and he says, "You go up there."

Q. Who was the man who was sent up there to investigate?—A. Fireman Godbold, the chief's son.

Q. He was a fireman on the Boston fire department?—A. Yes, sir.

Q. And did you talk to him that night?—A. When we went up there at the house?

Q. Yes.—A. Yes, sir; and came back with him.

Q. Talk with him at the fire?—A. No fire when we got there.

Q. Did you talk with him at the place where the fire was reported?—A. Yes, sir.

Q. Met him at the fire?—A. Yes, sir.

Q. Came with him from the fire?—A. Yes, sir.

Q. Came back from the fire with him, did you?—A. Yes, sir.

Q. And on the way, didn't meet anybody?—A. No, sir.

Q. So you didn't have a talk with this man Murray at that time?—A. Not at that time.

Q. No; all right. When did you have a talk with Murray?—A. Well, I turned round and told the man on patrol if anybody wanted me I was going to get a cup of coffee. So I started up to O'Toole's restaurant for a cup of coffee, and I met Mr. Murray coming across Maverick Square.

Q. I understand you left without giving notice to the captain.—A. Just as long as he knows where I'm going.

Q. Who was the man you told that night?—A. I don't know who was on the patrol that night.

Q. Don't you remember who was on the floor that night?

(Colloquy.)

Q. Now, sir, you don't mean to say, sir, you don't know the man who was on the watch there that night?—A. I know the man, but I don't know, just remember which one was on; I know every man in the house there.

Q. You recall telling this man you were going to get a cup of coffee?—A. I recall telling him if Boston called up that I was going up the street to get a cup of coffee.

Q. You don't know who that man was?—A. No, sir; I can't just recall him.

Q. Can you tell us any other person in the ward who saw you talking with this man Murray?—A. Not at Maverick Square.

Q. Anywhere else?—A. Chief Godbold's son at the fire house, Fred.

Q. He's not in your station?—A. No, sir; not in Boston.

Q. They're stationed in East Boston and you're stationed in Boston? You're stationed in East Boston?—A. I was stationed here that day.

Q. At the regular fire house?—A. At the regular fire house.

Q. This man's name is what?—A. Godbold.

Q. Godbold?—A. Yes, sir.

Q. Did Godbold see you and Murray together?—A. Yes, sir.

Q. Did you show the stickers to Godbold?—A. I didn't.

Q. Did Mr. Murray show them to him?—A. I don't know, sir.

Q. Godbold is friendly with you?—A. Yes, sir.

Q. Didn't he say it was curious this man should come in with you after 11 o'clock?—A. No, sir.

Q. Didn't pay any attention to that?—A. No, sir. Mr. Murray went in until 1 o'clock.

Q. You didn't call attention to anybody this man showed you the stickers?—A. No, sir.

Q. And nobody in there, that is, you can't remember any person in there hearing you and this man talk about the stickers in that station house, can you?—A. We brought in?

Q. Yes.—A. No, sir.

Q. Any relation of this man Murray?—A. No, sir; just a friend.

Q. Where do you live?—A. 160 Falcon Street.

Q. Where do you vote?—A. Up in ward 1.

Q. You were interested in Mr. Tague's campaign?—A. Yes, sir.

Q. Very much interested in it?—A. Yes, sir.

Q. Went out working for him?—A. No.

Q. What did you do to show your interest?—A. If I met any of my friends I asked them if they were working for Peter.

Q. Working at the polls?—A. Working at house 1 on that day.

Q. Where's that?—A. Forty Purchase Street, our own headquarters.

Q. When you go to the headquarters of your house in the morning is there anything to indicate you are there?—A. No, sir.

Q. Do you ring a clock?—A. No, sir.

Q. Do you ring a clock when you leave?—A. No, sir.

Q. Books are kept?—A. Yes, sir.

Q. And those books show whether you are there or not?—A. Whenever they ring in an alarm of fire.

Q. And those books will show whether you are there or not?—A. No, sir. Those books will not show whether I am there or not, because we—

Q. We will see whether those books will or not. Young man, you were giving out stickers for Tague?—A. No, sir.

EDWARD J. O'BRIEN.

[Adjourned until 2.30.]

FEBRUARY 26, 1919—10.25 P. M.

Mr. BERMAN. The hearing will now be resumed.

(Calling list of witnesses.)

(Stenographers sworn.)

DAVID STONE.

Direct examination by Mr. HARRINGTON:

Q. What is your name?—A. David Stone.

Q. And where do you live, Mr. Stone?—A. 19 Barton Street, Boston.

Q. And were you interested in this contest between Mr. Tague and Mr. Fitzgerald?—A. Yes, sir.

Q. And were you at any precincts on election day?—A. Yes, sir.

Q. At the primary, rather?—A. Yes, sir.

Q. What precincts were you in?—A. At precinct 4 and precinct 7.

Q. Where is precinct 4; what ward and where located?—A. Ward 5, located on Lowell Street, corner of Minot. Precinct 7 is on Blossom Street.

Q. In ward 5?—A. Yes, sir.

Q. By the way, did you go down there for any particular purpose to either one of those precincts on primary day?—A. I went down to look at the interests of Mr. Tague and sent down with a check list.

Q. What do you mean by a check list, to check voters, or some other purpose?—A. Check list of voters for the city of Boston.

Q. Sent down there for the purpose of checking lists of names that were challenged?—A. In the check list some names were to be challenged.

Q. Challenged, that was the purpose you went there?—A. Yes, sir.

Q. What happened when you got at the primary? By the way, about what time did you get there?—A. Nine o'clock in the morning.

Q. What happened after you got there?—A. When I arrived there I entered the booth, I inquired for the warden, and I was showed to him, I handed over a sticker to him, and he gave me a chair to sit down outside the railing while I was asking him the method of challenging and checking and speaking to him; my face being turned, two young men came over and grabbed the check list away from me and ran away, and I ran after them, and outside I got a policeman, and he also gave chase, and they went up in an alley in Cambridge Street, and I went afterwards to the station and reported it to the captain, and he put special officers Leonard and Boyle on the case. He wanted to know if I would push the case later on, and I said I had got to ask the Congressman. I went over to Charlestown and met the Congressman at a church located on Main Street; they were having mass for Hon. William Murray who was being buried on that day. I met him there, told him of the affair, and after being told the affair I also told it to Mr. Gibbons, who I knew very well and I wanted to get his advice. That's about all that happened on that day.

Q. Did you go then and testify before the Ballot Law Commission?—A. Yes, sir.

Q. Similar to what you have testified here?—A. Yes, sir.

Q. What happened then after you had finished testifying at the Ballot Law Commission?—A. After I got through testifying there were nothing for me to stay for, and I thought I better beat it home, and while I was going through the corridor, the large corridor, I was accosted by two young men. One says to me, "You testified?" Before I answered yes I received seven or eight blows.

Q. Where?—A. In the jaw and face.

Q. In the mouth?—A. I got a half-inch cut in my lip; my both lips were swollen. I came running back into the Ballot Law Commission. I entered the room, and Mr. Tague looked at it, and many other more witnesses looked at it.

Q. Yes; and did you report to the Ballot Law Commission?—A. Well, at the time there Mr. Tague—

Q. Mr. O'Connell.—A. He started telling Mr. Cunningham, the chairman of the Ballot Law Commission, he thought witnesses should be protected.

Q. And what did Mr. Cunningham say?—A. And Mr. Cunningham says he would take that matter up afterwards.

Q. Was anything ever done by the Ballot Law Commission, so far as you know?—A. In regard to the assault?

Q. Yes, sir.—A. No.

Q. Now, on election day, did you go to any of the precincts in ward 5?—A. On election day I was supposed to wake up at 6 o'clock in the morning to be present.

Q. What did you do?—A. I arrived at precinct 8, and after hearing——

Q. What time did you arrive there?—A. Little after 8 o'clock.

Q. Where is precinct 8?—A. Norman Street. After I arrived there I heard Mr. Gibbons——

Q. Is that precinct in the Washington School?—A. Yes, sir. After I arrived there and heard Mr. Gibbons was thrown out, so I says "This is no place for me. I've got one beating. I better get out of here." So I went back to Tague headquarters and while I went out I see one fellow come out of there——

Mr. CALLAHAN. You were asked what happened there.

Q. When you got to Tague headquarters, what happened there?—A. Well, I went in and they says to me, "What's the matter, Stone, you're not on your duty there." I says, "No; that's no place for me——"

Mr. CALLAHAN. Wait, I object.

Mr. BERMAN. Objection noted. Go ahead, Mr. Stone.

A. They says why wasn't I doing my duty. I told them that was no place for me, I heard Gibbons, a taller fellow than myself, had got thrown out. I says, "I'm not going down there and stay in there."

Q. Then what happened?—A. Also a fellow came from East Boston, and he goes out also. There's a story where he got ejected from precinct 7.

Mr. CALLAHAN. I object.

Mr. BERMAN. Note Mr. Callahan's objections.

Q. And what did he say?—A. He said, as near as I can remember telling me, that while walking through Blossom Street——

Mr. CALLAHAN. I don't suppose, Mr. Harrington, you want this evidence in.

A. While walking through Blossom Street to a stable on Garden Street——

Mr. HARRINGTON. Never mind, I withdraw the question; we don't want that. Your witness.

Cross-examination by Mr. CALLAHAN:

Q. Where do you live?—A. 19 Barton Street, Boston.

Q. Where's that?—A. The West End.

Q. Are you a voter?—A. No, sir.

Q. How old are you?—A. Eighteen and three months.

Q. You were less than 18 on election day?—A. Primary?

Q. Primary day.—A. Yes, sir.

Q. Who asked you to go to the polls?—A. I volunteered myself.

Q. Who asked you to go?—A. Well, no one asked me, but I volunteered myself to go down.

Q. To whom did you volunteer your services?—A. To Mr. Tague and his secretary, Mr. Joe Kane.

Q. And you did that for Mr. Gibbons, did you?—A. No, sir. I was looking out for the interests of Mr. Tague.

Q. You are very friendly with Mr. Gibbons, aren't you?—A. Yes, sir.

Q. On his account you volunteered your services?—A. No, sir.

Q. Sure you didn't get paid for your services?—A. Yes, sir.

Q. Sure you didn't?—A. Yes, sir.

Q. Didn't get anything for the primary?—A. No, sir.

Q. Didn't get anything for election?—A. No, sir.

Q. Ever received any reward whatever for your work for Mr. Tague?—A. No, sir.

Q. Has Mr. Tague done something for you?—A. Previously to the primary day; yes.

Q. What did he do?—A. He offered to appoint me as midshipman to go to Annapolis. I went to the Chelsea Naval Hospital to get examined and fell down physically.

Q. So Mr. Tague was going to appoint you to Annapolis?—A. That was previously to primary day.

Q. And because he was going to appoint you to Annapolis you went to the polls and worked for him?—A. I done that——

Q. Because he appointed you to Annapolis, you felt you ought to go to the polls and work for him?—A. Well, I wasn't appointed.

Q. Because he promised the appointment, isn't that why you went to the polls?—A. Not exactly.

Q. Why did you go exactly?—A. Why, I thought Mr. Tague was the best candidate. For all I knew I should be on his side.

Q. You were not particularly interested; you weren't a voter. You didn't know much about political conditions, did you?—A. No.

Q. And you didn't know much about the qualifications of either Mr. Tague or Mr. Fitzgerald?—A. Yes, sir.

Q. You did?—A. Yes, sir.

Q. Did you know Mr. Fitzgerald?—A. Not to speak to.

Q. Don't know anything about him, do you?—A. Read his career.

Q. Of your own knowledge. You know anything about him of your own knowledge?—A. Yes, sir.

Q. Had any personal experience with him?—A. No, sir.

Q. Anything you know about Mr. Fitzgerald is what you've heard, is that so?—A. Not exactly what I heard or what I know.

Q. You had no personal experience with him, had you?—A. I shook hands with him once or twice; that didn't amount to nothing.

Q. Is that why you dislike him?—A. You want to know why I dislike him?

Q. No, no; is that why you dislike him, because you shook hands with him?—A. No.

Q. You didn't know anything about Mr. Fitzgerald and you shook hands with him twice?—A. I knew about the congressional district, and these men were to run there.

Q. You weren't a voter?—A. No, sir.

Q. Anybody in your family a voter?—A. Yes, sir.

Q. Where do they vote?—A. They don't vote.

Q. They don't vote?—A. No, sir.

Q. They have the right to vote?—A. Yes, sir; my father is a citizen.

Q. Does he vote?—A. No.

Q. Why?—A. He doesn't care to vote.

Q. Couldn't you induce him to vote?—A. Hadn't voted the last 15 or 20 years.

Q. Didn't you ask him to go and vote for Mr. Tague?—A. No, sir.

Q. Didn't you think you ought to get all the votes you could for Mr. Tague?—A. Yes, sir.

Q. You didn't even ask your father?—A. No, sir.

Q. You got there about 9 o'clock that morning?

Mr. HARRINGTON. The day of the primary or election?

Mr. CALLAHAN. Primary.

A. Yes, sir; about 9 o'clock.

Q. Have a list of names to challenge?—A. Yes, sir; inside the check list.

Q. I thought Mr. Gibbons had a list with names to challenge.—A. Maybe had a duplicate. I had one given me by the city of Boston.

Q. Anybody else there besides you and Mr. Gibbons?—A. Mr. Gibbons wasn't there with me at precinct 7.

Q. You were at precinct 4, weren't you?—A. You referring to precinct 7?

Q. Didn't you say you were at two precincts that day?—A. Yes, sir; which one are you speaking about?

Q. I want to find out which precinct you were at.—A. Precinct 4 in the morning and precinct 7 after 9 o'clock.

Q. Wasn't Mr. Gibbons there?—A. No, sir.

Q. Go back to primary day. You were at two precincts on primary day?—A. Yes, sir.

Q. How long were you at precinct 4?—A. Should say quarter past 6.

Q. Quarter past 6?—A. Yes, sir.

Q. How long did you stay there?—A. Little after 8.

Q. Little after 8. Did you challenge any voters?—A. No, sir.

Q. Did you try to challenge any?—A. I wasn't in that for that. There was men in there challenging voters.

Q. What were you doing there?—A. One of the cowokers; if he went out to get a bite, I was supposed to go in there.

Q. Did he go out to get a bite?—A. No.

Q. You didn't have a chance to challenge voters?—A. No, sir.

Q. You didn't have any chance in precinct 4?—A. No, sir.

Q. Everything was orderly; you didn't have any trouble.—A. Not with me.

Q. Or anything you could see?—A. No, sir.

Q. The voters there were coming in and placing their ballots in the boxes.—A. I wasn't inside the booth.

Q. There was no disturbance outside?—A. I don't know.

Q. You went to precinct 7?—A. Yes, sir.

Q. What happened at precinct 7?—A. The challenge list was snatched out of my hands.

Q. What time did you go to precinct 7?—A. About 9 o'clock.

Q. This was on primary day?—A. Yes, sir.

Q. Do you know who took that check list?—A. By sight.

Q. Do you know any of the young men who took it? You say two young men took it.—A. I know by sight. I forget their names, too.

Q. Any other Tague worker there that morning at that precinct?—A. Not that I noticed.

Q. You were the only one?—A. Yes, sir.

Q. Was the check list returned to you?—A. No, sir.

Q. You went right away from there after the check list was taken?—A. Sure, and then I went to the station house.

Q. And these were two boys weren't they—— A. Well, over——

Q. About your age?—A. One was 19 and one about 21.

Q. You didn't have any words with them, did you?—A. No, sir.

Q. You never had any grievance or fights with them?—A. No, sir.

Q. And you didn't know them very well?—A. No, sir.

Q. No. And there was no reason why they should do anything to you that you know of?—A. No, sir.

Q. No. And you don't say that anybody was told to take that check list away from you, do you?—A. Not that I heard of.

Q. These two boys simply came up and took that check list away from you?—A. Yes, sir.

Mr. HARRINGTON. You wouldn't characterize 19 and 21 as boys.

Q. Did they say anything to you?—A. I was speaking to the warden at the time.

Q. Did they say anything to you?—A. No.

Q. Where did you get this list of names on which you were going to challenge?—A. From my coworker, who was Mr. Lebosky.

Q. Mr. Lebosky?—A. Yes, sir.

Q. And what precinct was he at?—A. I met him on Lowell Street.

Q. You met him on Lowell Street?—A. Yes, sir. About 50 feet away from the booth.

Q. Do you know him very well?—A. Yes, sir.

Q. He is a friend of Gibbons also, isn't he?—A. Yes, sir.

Q. Can you remember any of the names now you were to challenge for Mr.—A. Just one name.

Q. What?—A. McCurdy, up on Cambridge Street.

Q. What's his first name?—A. Robert McCurdy, I think, I'm not sure it's Robert. I know it's McCurdy. I'm not sure if it's Robert.

Q. That was one name you were going to challenge?—A. Yes, sir. When I got in——

Q. That's one name you can remember?—A. Yes, sir.

Q. On election day where did you go?—A. Precinct eight.

Q. Young man, you testified before the ballot law commission, didn't you?—A. Yes, sir.

Q. Didn't you testify there that you didn't know who gave you the list?—A. Yes, sir.

Q. And you want to change that testimony now?—A. I'm sure of it at present.

Q. Sure now?—A. Yes, sir.

Q. But at that time you didn't know who gave you the list?—A. No, sir.

Q. And yet the hearing before the ballot law commission was only two weeks from the happening?—A. I can't say.

Q. I mean about two weeks after the primary?—A. Yes, sir.

Q. And at this hearing you described what occurred at the primary?—A. Yes, sir.

Q. And at that time you testified, two weeks after, you didn't remember who gave you the list?—A. No, sir.

Q. But now you do remember?—A. Yes, sir.

Q. Did anybody call your attention to it?—A. Yes, sir; from facts in the newspapers.

Mr. HARRINGTON. I pray your Honor's judgment.

Mr. CALLAHAN. I want that answered "Yes" or "No."

Mr. BERMAN. Answer the question in your own way, Mr. Stone.

Q. Who called your attention to the person who gave you this list on primary day?

Mr. HARRINGTON. Is it withdrawn?

Mr. CALLAHAN. I don't object; go ahead.

The WITNESS. You want me to proceed?

(Question read by stenographer.)

Mr. CALLAHAN. I say you can answer it "Yes" or "No."

Mr. BERMAN. I made the ruling on that, Mr. Callahan. You may answer in your own way, if you wish [to witness].

A. On them facts that were being printed in the Boston newspapers——

Mr. CALLAHAN. I object to this answer.

Q. I happened to be speaking with Mr. Lebosky and another man by the name of Manovitz, and Mr. Lebosky says, "It's funny Stoney don't remember who gave the check list to him. Don't you remember I gave it to you?" This was after the ballot law commission, after I testified.

Q. All right, so this is the only way you remember Lebosky gave you the check list, is it?—A. Yes, sir.

Q. The mere fact that after the hearing he came up to you and said, "That's funny, Stoney, you don't remember I gave you the check list?" That's the only way you remember it, isn't it?—A. From thinking it over, too.

Q. That's the only way you remember it?—A. No, sir.

Q. What other way do you remember it?—A. After he told me I was thinking it over.

Q. What other way do you remember that Lebosky gave you that check list?

Mr. BERMAN. He's answered it. He said "thinking it over."

Mr. CALLAHAN. I don't think we should be interrupted.

Mr. BERMAN. I think he is entitled to be protected.

Q. You know what I mean, young man, don't you?—A. Repeat that question, please.

Q. You know Lebosky told you he gave you the check list?—A. Yes.

Q. And when he told you, you suddenly remembered he did give you the check list?—A. Not suddenly.

Q. How long did it take you to sink in?—A. Inside of three or four hours, and then I thought I would ask a lot of others.

Q. All right, then, and then you asked——A. No.

Q. What do you mean, you pondered over it, and then you thought you would ask all the other fellows?—A. I asked Mr. Manovitz; I thought perhaps he was kidding me.

Q. What did you ask Mr. Manovitz?—A. I said, "He isn't kidding me, is he?"

Q. All right. Then, when this man said he gave you the check list, you said to Manovitz, "Did he give me the check list, you're not kidding me"?—A. Yes, sir.

Q. And what did Manovitz say?—A. "Yes; he did give you the check list."

Q. And you were satisfied then?—A. Yes, sir.

Q. Didn't you ask several other fellows?—A. I asked Mr. Lebosky and Mr. Manovitz.

Q. You asked Mr. Lebosky and Mr. Manovitz, and you weren't satisfied when Mr. Lebosky told you, but you were satisfied when Mr. Manovitz told you, is that right?—A. No.

Q. Well, did you ask anybody else?—A. After thinking it over a while I knew he gave me it.

Q. You weren't satisfied when Manovitz told you, you had to think it over a little more?—A. Yes, sir.

Q. Now, when was it, on that day or any other day, that it dawned on you that Manovitz or Lebosky gave you that list?—A. Couple of hours later.

Q. And where did it dawn on you on that day that he gave you the check list, were you at home?—A. Yes, sir.

Q. And you were sitting down pondering over this thing?—A. Yes, sir.

Q. So that I understand now that you left Lebosky and left Manovitz and went home and sat down to think the thing over—whether Lebosky gave you the check list?—A. No, sir.

Q. Is that so?—A. No, sir.

Q. From the time you left him until two hours afterwards, when you were finally convinced that he gave the check list to you, did you do any thinking on the matter whatever?—A. Yes, sir.

Q. And did you think for the whole two hours? Were you thinking about it for the two hours?—A. No, sir.

Q. How much of the two hours were you thinking about it?—A. I can't give you the exact time I was on it.

Q. Well, were you thinking about it for an hour?—A. No, sir.

Q. Were you thinking about it for three-quarters of an hour?—A. About that time.

Q. About three-quarters of an hour. So that after you left Manovitz, for three-quarters of an hour you were thinking whether or not Lebosky was kidding you, is that so?—A. No; not right after I left Lebosky; I went right home.

Q. You went right home?—A. I didn't go right home.

Q. You didn't go right home after you talked with Manovitz?—A. Yes, sir.

Q. And after that you kept thinking about it for three-quarters of an hour?—A. No, sir.

Q. After that when did you have this steady thinking of about three-quarters of an hour?—A. My supper hour.

Q. The next day?—A. No.

Q. The same day—your supper hour?—A. Yes, sir.

Q. When did you have the talk with Lebosky?—A. On Sunday.

Q. And on Sunday you were finally convinced that he did give you the check list?—A. Yes, sir.

Q. What time on Sunday did you have that talk with him?—A. About 12 o'clock.

Q. Now, let's see if I've got this right. You had a talk with Lebosky at 12 o'clock, then you had a talk with Manovitz—A. At the same time.

Q. At the same time, and then at supper time that night, which was at what hour?—A. Half-past 7.

Q. Half-past 7 at night, after thinking it over for three-quarters of an hour steadily you decided that Lebosky did give you the list, is that so?—A. Yes, sir.

Q. You have a pretty good memory, haven't you, young man?—A. Yes, sir.

Q. How old are you?—A. Eighteen and three months.

Q. You never had a lapse of memory before, did you?—A. Yes, sir.

Q. You did? Do you have frequent lapses of memory?—A. I did have one during the time I was up to the ballot law commission.

Q. You forget things easily?—A. No, sir.

Q. And what made you forget the fact that Lebosky gave you that list?—A. Well, I was running around on primary day; I was mixed up, and I ran over to Charlestown, and I didn't know what to do.

Q. As a matter of fact, there were only two men you were doing business with in ward 5—Lebosky and Gibbons?—A. No, sir.

Q. Who else?—A. I was speaking to Mr. Tague and his secretary at headquarters.

Q. I am speaking of that ward—ward 5.

Mr. O'CONNELL. That's in that ward; you want to remember that.

Q. There were only two men, young men, that you were doing business with that day, and they were Gibbons and Lebosky; isn't that so?

Mr. O'CONNELL. Wait; wait a minute, please.

Q. Isn't that so, young man?

Mr. O'CONNELL. You need not answer. I want to call to Mr. Berman's attention the term "business" is offensive, and the young man need not answer a term of that kind.

Q. Young man, do you know what business means?—A. Yes, sir.

Q. All right. Now, then, I want you to tell me if there was any other person beside Lebosky and Gibbons that you were doing business with in ward 5 that day?—A. Not from a financial standpoint.

Q. I am not talking about financial standpoint, young man, but were you doing business with anybody in that ward besides those two men?—A. Speaking to them?

Q. Speaking to them; yes.—A. Yes, sir.

Q. Who else?—A. Mr. Tague and his secretary.

Q. In that ward?—A. Yes, sir.

Q. Besides Mr. Tague, his secretary, Lebosky and Gibbons, did you speak to anybody else in that ward?—A. Yes, sir.

Q. Who else?—A. Mr. Friel.

Q. Who is Mr. Friel?—A. Resides on Billerica Street.

Q. What were you doing with him?—A. Speaking to him outside that he was going to get licked.

Q. You were telling Friel that he was going to get licked?—A. That his candidate was.

Q. That his candidate was?—A. Yes, sir.

Q. Were you telling that to everybody in the district?—A. No, sir.

Q. Just what were you doing there; what were you doing outside?—A. Outside?

Q. Yes.—A. Gazing at the voters going in, noticing no illegal voters were going in.

Q. Gazing at the voters? Were you gazing at the sky at all?—A. Yes, sir.

Q. You didn't talk to these voters that were going in, did you?—A. No, sir.

Q. Do you mean to say that you were interested in getting voters for Mr. Tague and you didn't talk to one voter?—A. Yes, sir.

Q. Do you mean you didn't speak to them?—A. Yes, sir.

Q. Didn't speak to a voter?—A. Yes, sir.

Q. Merely standing outside of this booth, saying nothing and doing nothing?—A. I spoke to some men outside.

Q. You spoke to some men that were hanging around outside?—A. Yes, sir.

Q. You don't mean to say that you asked none of the men at all to vote for Mr. Tague?—A. No, sir.

Q. That's what you were there for?—A. No, sir.

Q. You couldn't challenge votes outside?—A. That I know.

Q. You couldn't interfere in anyway with the proceedings inside?—A. Could not; no.

Q. You were simply standing there like a dummy?—A. Standing like a dummy?

Q. Yes, sir.—A. No; I was speaking to the people around.

Q. Did you speak to the voters?—A. No, sir.

Q. You didn't do much for Mr. Tague, did you?—A. Yes, sir.

Q. Do you know any of the voters in that precinct?—A. Yes, sir.

Q. How many do you know?—A. Quite a few.

Q. Which precinct is that?—A. Precinct 4.

Q. Would you know how to challenge a voter if you were inside?—A. I was told so I would.

Q. How would you do it?—A. If I thought this man was an illegally registered voter, I would go over to the warden and yell, "I want this man challenged," and write on the back of the ballot, "I challenge so and so," and write my name in blue pencil.

Q. Were you told by anybody that you would have to write your name?—A. I thought—

Q. No, no; were you told by anybody that you would have to write your name?—A. Because I heard people say when they came up that was the way a man would have to be challenged.

Q. When you were sent down there, weren't you given any instructions?—A. Given instructions?

Q. Yes, sir.—A. Given instructions when the men go in to vote?

Q. All right, weren't you given any instructions how to challenge?—A. I knew that.

Q. You think you know?—A. I think I did know.

Q. You knew you would have to put your name on the ballots?—A. As far as I know.

Q. Did you put your name on the ballots there?—A. No.

Q. What did you mean, young man, when you said you went to the warden to find out how to challenge and mark off the votes?—A. To make sure.

Q. Didn't you ask him that?—A. Yes, sir.

Q. Didn't you just tell us now that you knew how to challenge?—A. Yes, sir.

Q. There wasn't any occasion to ask the warden, was there?—A. Yes, sir.

(Colloquy.)

Mr. BERMAN. Proceed, Mr. Callahan.

Q. Now, young man, on election day nobody bothered you at the polls, except the incident that you have described—that somebody took your check list?—A. That was on primary day.

Q. On primary day?—A. Yes, sir.

Q. Nobody took your check list on election day?—A. No, sir.

Q. And you got around there late, I understand, on election day?—A. Yes, sir; 8 o'clock.

Q. And somebody told you the story about Mr. Gibbons?—A. Yes, sir.

Q. And you thought you better beat it?—A. Yes, sir.

Q. And you mean by "beat it" you ran?—A. Yes, sir; beat it.

Q. By "beat it" you ran away?—A. Didn't run; walked fast.

Q. Walked fast; walked away from the imaginary affair, didn't you?—A. When I see Mr. Gibbons I knew he got thrown out.

Q. Nobody said anything to you in a threatening way?—A. I wasn't in there long enough.

Q. Nobody threatened you, did they?—A. Inside the booth?

Q. Inside or outside?—A. No.

Q. And because somebody said Mr. Gibbons wasn't there and was thrown out you decided to beat it, as you say?—A. Yes, sir.

Q. And you didn't go back that day?—A. No.

Q. While you were there, young man, did you see any disturbance?—A. No, sir.

Q. You didn't see anybody interfering with anybody else?—A. There was no Tague men in there——

Q. There were no Tague men in there. You didn't see anybody in there interfering with Tague men or otherwise——

Mr. O'CONNELL. Wait a minute. You answer in the manner you want to. Don't let Mr. Callahan stop you.

Mr. BERMAN. Mr. O'Connell, you will have the right under redirect examination to call the witness. I have a right, sir, to have the witness answer the question. My learned brother has no right to interrupt him, and I want the witness to be allowed to answer without being interrupted by my learned brother.

(Colloquy.)

Mr. CALLAHAN. Now, young man, answer the question.

A. Will you repeat it, please.

Q. Then I will say, did you, sir, while you were in there, say you saw no interference with anybody?—A. Inside?

Q. Inside or outside.—A. I seen where a man had been stopped up.

Q. At that particular time?—A. During the time I was outside or inside.

Q. What do you mean—a year ago?—A. On election day.

Q. Some years ago?—A. No, sir.

Q. On that particular election day?—A. Yes, sir.

Q. At that particular time when you were there?—A. Yes, sir.

Q. What did you see?—A. When I entered the polls I goes around to see if I could find Mr. Gibbons, and they told me he was thrown out, and while going outside I saw some man being stopped by some man and asked to vote for somebody.

Q. You don't know who he was asked to vote for?—A. Yes, sir.

Q. Did you hear it?—A. No, sir.

Q. If you didn't hear it, how can you say who he was asked to vote for?—A. Because he wasn't passing——

Q. Is that the only reason?—A. Any stickers out.

Q. Is that the only reason, young man?—A. Yes, sir.

Q. Are you willing to say—are you willing to say—sir, that when you see two men talking together, and you don't hear what they say, that you can tell what is said between them?—A. They weren't talking together. I happened to notice where a man was coming down the street and he was stopped——

Q. Yes; and something was said?—A. Yes.

Q. You didn't know what he said?—A. I knew what they were speaking about.

Q. All right. You knew what they were speaking about without hearing it? You answer that "yes" or "No."—A. Yes.

Q. You knew that he was asking for votes for Mr. Fitzgerald, and you didn't hear it?—A. I didn't hear when he asked him.

Q. All right, sir, before the ballot law commission, young man, you went up there and testified, didn't you?—A. Yes, sir.

Q. And you said you were struck——

(Colloquy.)

Q. You went and testified before the Ballot Law Commission?—A. Yes, sir.

Q. And you testified substantially as you have testified here, with the exception, of course, that you didn't know who gave you the list?—A. Yes, sir.

Q. And then as you were leaving the corridor—you were outside in the corridor—you say somebody struck you?—A. On my way home.

Q. On you way home. By that you mean, on your way home?—A. After I got through testifying I thought I wouldn't stay in much longer——

Q. After you got through testifying where did this alleged assault take place?—A. In the corridor.

- Q. Of the statehouse?—A. Yes, sir.
- Q. On the same floor as the Ballot Law Commission hearing?—A. Yes, sir.
- Q. How far away from their room?—A. Two or three hundred feet.
- Q. Two or three hundred feet away from their room. Do you know who struck you, young man?—A. By sight.
- Q. And is he a young fellow, too?—A. No.
- Q. How old was he?—A. I think they were both voters, one was anyway.
- Q. Do you know how old they were?—A. Well, one fellow was about 23.
- Q. Don't you know the names of either one of these two young men you say assaulted you?—A. No, sir.
- Q. Didn't you give the name to the Ballot Law Commission?—A. No, sir.
- Q. Will you say, sir, now, that when you went back to the Ballot Law Commission you didn't tell them the name of a person you said assaulted you?—A. Yes, sir.
- Q. You didn't give a name?—A. I didn't give a name.
- Q. Where were you struck?—A. Right here in the jaw [indicating] and one right here [indicating].
- Q. Were you struck from behind?—A. Sideways.
- Q. You saw the person who struck you?—A. I didn't expect it to come.
- Q. You saw who struck you?—A. Yes, sir; I seen who struck me.
- Q. Do you mean to say you were struck without something being said to you, or you saying something to somebody else?—A. I told you what was said.
- Q. What was said?—A. I stood there, and he said "You testified," and before I could answer I got it in the jaw.
- Q. Nothing else was said?—A. Not that I remember.
- Q. Don't you know that man?—A. By sight.
- Q. When you were struck the blow what did you do?—A. I came back to the Ballot Law Commission.
- Q. All right. Let's see. You say a young man came out and asked you if you had testified, and without your saying a word he struck you a blow; is that so?—A. As near as I can remember.
- Q. As near as you can remember, and then you went back to the Ballot Law Commission?—A. After I was struck.
- Q. After you were struck. All right. In your direct testimony you said you were struck seven or eight blows; you don't mean that, do you?—A. About seven or eight.
- Q. You didn't mean that when you said just now he struck you and you went right back to the Ballot Law Commission?—He struck me. There were two men.
- Q. Do you know the man?—A. I know the men by sight.
- Q. Did you know his name?—A. No.
- Q. Know it now?—A. No.
- Q. Ever try to find out his name?—A. No, sir.
- Q. Let's see, you say the man struck you a blow?—A. The men.
- (Colloquy regarding holding witnesses in the court room.)
- Q. Young man, you say you were struck seven or eight blows?—A. Yes, sir.
- Q. On the face and head?—A. Not head, face; face and jaw.
- Q. Jaw and face?—A. Yes, sir.
- Q. Did you go and complain of these men?—A. No, sir.
- Q. Go to the police and make any complaint?—A. No, sir.
- Q. And for the reason that you didn't know their names?—A. Yes, sir.
- Q. You could identify them?—A. By seeing them in the street.
- Q. Have you ever seen them before that day?—A. Had I ever seem them before that day?
- Q. Yes.—A. Yes.
- Q. Where had you seen them?—A. In the street.
- Q. Saw them in the street?—A. Yes, sir.
- Q. Where; in what street?—A. Around Chambers Street.
- Q. Chambers Street?—A. Yes, sir.
- Mr. O'CONNELL. Chambers Street is in ward 5, down near the Hendricks Club.
- Mr. CALLAHAN. No; I don't want you to answer that.
- Mr. O'CONNELL. There are two, that's all. I wanted to be sure which one——
- Q. You don't know those young men?—A. Not by name.
- Mr. HARRINGTON. I pray your honor's judgment. That question has been asked about 27 times.
- Mr. BERMAN. And answered the same number of times.

Mr. CALLAHAN. Want it stricken out?

Mr. BERMAN. No; it may stand.

Q. I asked you if you knew either of these young men before the day of this assault?—A. Never spoke to them before.

Q. How many times did you ever see them before that day?—A. Quite a number.

Q. About how many times?—A. Nine or 10 times.

Q. Ever see them after that day?—A. Yes, sir.

Q. Do you know where they live?—A. No, sir.

Q. Do you know if they went out?—A. No, sir.

Q. You can identify them, can't you, if you saw them?—A. Yes, sir.

Q. And yet you didn't go to the police and make any complaint of this assault, did you?—A. No, sir.

Q. You were able to be around that day and the next day, weren't you?—A. Around where?

Q. Around your regular work?—A. Yes, sir.

Q. It didn't interfere in any way with your employment or your work?—A. Interfered with my eating.

Q. How much do you weigh, young fellow?—A. Two hundred.

Q. You weigh 200 pounds?—A. Yes, sir.

Mr. CALLAHAN. That's all.

Redirect examination by Mr. HARRINGTON:

Q. Mr. Friel, you referred to, is that the gentleman who is so prominent in the Hendricks Club?—A. I don't know how prominent he is; he's a member.

Q. You say you knew these boys?—A. Yes, sir.

Q. And what crowd they belonged to?—A. Yes, sir.

Q. What crowd they belonged to is the same crowd known as Mr. John I. Fitzgerald's crowd?—A. I've seen them walking with him once or twice.

Q. That's the senator sitting at the end of the table?—A. I can't see him.

Q. Can you see him now?—A. If he stood up maybe I would know him.

Q. Go over and look at him.—A. Yes, sir.

Q. Do you wear glasses generally?—A. Yes, sir.

Q. Were they broken during this?—A. No; weren't broken.

Q. Broken since?—A. Yes.

Q. Were they disturbed in any way?—A. Bent a little, that piece right there [indicating].

Q. At the time of the assault at the State house at the ballot law commission?—A. Bent a little.

Mr. HARRINGTON. That's all.

DAVID STONE.

SARAH McKENNA.

Direct examination by Mr. O'CONNELL:

Q. What is your full name, please?—A. Sarah McKenna.

Q. And you live at 722 Commonwealth Avenue?—A. Yes, sir.

Q. And that is the Commonwealth Hospital?—A. No; my private—

Q. Your private home?—A. Yes.

Q. What is your business?—A. Graduate nurse.

Q. Do you know Irving P. Dodge?—A. I do.

Q. Is he a doctor?—A. I do not know.

Q. Where is his place of business?—A. I do not know, except it is in the west end, sir, somewhere.

Q. In the west end. Do you know of somewhere else he holds, or did hold, his place of business?—A. He is interested in the Commonwealth Hospital.

Q. Where is the Commonwealth Hospital?—A. I think the number is 619 Commonwealth Avenue.

Q. Commonwealth Avenue?—A. Yes.

Q. In the Back Bay?—A. Yes.

Q. Do you work there?—A. I have worked there.

Q. How long have you worked there?—A. Taking cases off and on.

Q. During what period—one year, two, or three?—A. No; within the last three months.

Q. Before that, did you ever do any work there?—A. No.

Q. Did Mr. Dodge live there, or had he lived there at any time when you were at the hospital?

Mr. CALLAHAN. She has only been there three months.

A. I think Mr. Dodge does not live at the Commonwealth Hospital.

Q. Does not?—A. No; he does not.

Q. Did you interview a young man within the last three or four weeks?—A. I did.

Q. Did you tell him Mr. Dodge was living there and he came home very often; that you saw him coming home and in and out the place?—A. I think I undoubtedly told him; not in the way you are telling me.

Q. What way did you tell him? In what way did he come home? I don't mean his condition.—A. What home?

Q. At the hospital?—A. That is not his home.

Q. What home did you mean?—A. Mr. Dodge's home.

Q. Where is that?—A. At my home.

Q. Where is that?—A. 722.

Q. What suite is that?—A. He and his son occupy rooms in my home.

Q. Oh, I see. How long has he been there?—A. Since November 26.

Q. Of what year?—A. 1918.

Q. Before he came to your house where was he?—A. I do not know. He was right on the street somewhere.

Q. On the same street?—A. Yes, sir.

Q. How do you know that?—A. Because I since heard him speak of it—a few doors below—but I do not know the number.

Q. How long did he live there?—A. I do not know.

Q. Does his son live with him?—A. Son lives at my house.

Q. How old is the son?—A. 16.

Q. Wife live there?—A. Not at my house.

Q. Does the son go to school?—A. He is attending some medical college.

Q. Attending some medical college? Do you know where?—A. No.

Q. In Boston?—A. I don't know.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. No questions.

SARA MACKENNA.

Mrs. CONCETTA SCOTTI:

Direct examination by Mr. O'CONNELL:

Q. What is your full name, Mrs. Scotti?—A. Concetta Scotti.

Q. And where do you live, Mrs. Scotti?—A. 1875 Commonwealth Avenue.

Q. How long have you lived there?—A. Two years.

Q. And where did you move from?—A. From Summit Avenue—69 Summit Avenue.

Q. In Brookline?—A. In Brookline.

Q. Do you know Marciano Di Pesa?—A. He is my father.

Q. He is your father?—A. Yes, sir.

Q. How old is your father?—A. 72.

Q. He is the owner of the Hotel Napoli?—A. Yes.

Q. That is on —?—A. Friend Street.

Q. Friend Street, Boston, ward 5?—A. Yes.

Q. And you live in what is known as the "Chesterfield," 1875 Commonwealth Avenue?—A. Yes.

Q. Suite 4?—A. Yes.

Q. And your father lives there with you?—A. No; my father does not live there with me.

Q. Your father is there a great deal?—A. Not very much.

Q. Tell us how much your father is there?—A. My father comes to dinner on Sunday.

Q. Yes.—A. And he stays in the afternoon, and that's about all.

Q. Haven't I seen your father going out of that house mornings with your brother in an automobile, Mrs. Scotti?—A. Hardly; my father's health won't allow him to ride in an automobile.

Q. What do you mean by "hardly?" I live right there, and I want to know if my own eyes deceive me.—A. You might see him once every two months or so.

Q. What is the occasion of his visiting you once every two months?—A. That's when he comes Saturday nights when he can't come Sunday.

Q. What were the other occasions on which I have seen him, not referring to Sunday morning?—A. You have never seen him.

Q. Have you told about your father to a young man who called at the house to ask you about him?—A. I don't remember; no.

Q. Did anybody call and make any inquiries about Mr. Di Pesa, and you gave information about him?—A. I don't remember.

Q. I want to call your attention to it, because I don't want to have any misunderstanding that would put you in a light that wasn't fair.

Mr. BROGNA. I object to that.

Mr. BERMAN. I think that is a perfectly fair comment, Mr. Brogna.

Q. You won't say, Mrs. Scotti, that somebody has not talked with you recently about your father out at your home, will you?—A. No, sir; a lot of people come to my home and talk to me about my father.

Q. Where does your father live?—A. My father lives at the Hotel Napoli.

Q. He stays there all the time?—A. All the time.

Q. Your father stays at the Hotel Napoli and only comes to visit you occasionally?—A. On Sundays he always comes to dinner.

Q. Although Sunday is supposed to be the day the Hotel Napoli puts up the most attractive dinner?—A. Sunday night.

Q. And isn't it a fact he comes to your home on Saturday night?—A. Only when he can't come Sunday.

Q. As a matter of fact, Saturday night at the Hotel Napoli is the principal night, and it closes at 12 o'clock, and he stays until it closes at 12 o'clock?—A. No; he doesn't close. He gets away about 8 o'clock.

Q. You have talked with your father about being summoned here as a witness?—A. I did.

Q. When?—A. Talked with father four or five days ago, when the summons came.

Q. Did he speak about voting at the Hotel Napoli?—A. No; he couldn't understand why I should be called into it at all.

Q. Did he make any talk about it?—A. He didn't understand why I should be summoned to come into the Fitzgerald case.

Q. Didn't he tell you somebody had been there?—A. No.

Q. What else did he say?—A. He said to come up and find out what they wanted.

Q. What else did he say?—A. He said he couldn't understand why they summoned me, "unless you have discussed it with some one."

Q. "Discussed it with some one," that was his proposition. What did you say to that?—A. I never discussed the case because I wasn't interested in it.

Q. What did he say, that he had discussed the case?—A. No; he said nothing.

Q. Your father used to live at Summit Avenue with you?—A. No; father never lived with us since he bought the hotel.

Q. When was that?—A. In 1905.

Q. Isn't it a fact your father's liquor license on the Hotel Napoli keeps his voting residence there, but he does stay at your home in a respectable neighborhood, and has attractive surroundings, and doesn't stop at Hotel Napoli, which is in the center of the city, and is not near as attractive as your own home?—A. No; that is not so.

Q. And haven't you told the investigator that?—A. That is not so.

Q. Haven't you told that in substance to the investigator?—A. Who is the investigator?

Q. Don't you know?—A. I don't.

Q. Don't you recall talking to anybody?—A. I said I talked to a great many people about my father.

Q. And don't you remember talking to people because your father went down to the Napoli and there were not as good surroundings?—A. No.

Q. What did you say to the investigator?—A. I haven't spoken.

Q. What did you say to the investigator about where your father votes?—A. I haven't spoken to anybody about where father votes.

Q. Who lives with you?—A. My mother.

Q. And yourself?—A. Yes, sir.

Q. And you have no children?—A. No, sir.

Q. Your mother and father do not live together?—A. No.

Q. When did he first— A. In 1905.

Q. Mrs. Scotti, haven't I seen your father and mother— A. My mother is a very old lady.

Q. Haven't I seen your father and mother go out in an automobile?—A. You haven't seen my mother go out in an automobile.

Q. I am not talking about your mother. Then, I understand your father separated from your mother in 1905?—A. Not separated. He didn't live with us, that's all.

Q. What do you mean by that?—A. I mean he assumes all the expense of our home, but doesn't come and sleep with us.

Q. I see. Your father assumes all the expenses of the home, everything, but comes out there, do you think he is separated from you?—A. He is not separated.

Q. He is on good terms with your mother and you?—A. Absolutely.

Q. And lives as husband and wife, does he, as far as relations are concerned?—A. No; he doesn't.

Q. There is friendly, kindly feeling?—A. Oh, yes.

Q. No court separation?—A. None whatever.

Q. And no dissent between them?—A. None at all.

Q. He pays all the bills for the apartment?—A. All of them.

Q. All of them?—A. All of them.

Q. For the furniture?—A. All of them.

Q. Pays all the bills?—A. Everything.

Q. Telephone bill?—A. Yes, sir.

Q. House rent? Is he on the lease?—A. Yes, sir; everything.

Q. Your father owns everything there—A. Yes, sir.

Q. Furniture and all?—A. Yes.

Q. Now, then, do you know Joseph Di Pesa?—A. Yes, sir.

Q. Who is he?—A. My uncle?

Q. Your father's brother?—A. Yes, sir.

Q. Associated with him in the ownership of the Napoli?—A. Yes, sir.

Q. He lives at 46 Summit Avenue, Brookline?—A. No; he lives at the Hotel Napoli.

Q. Didn't he live at Summit Avenue?—A. He never lived at Summit Avenue. He used to come to visit us, and also comes and visits us now we are living here.

Q. Who lived at Summit Avenue?—A. My widowed sister and her children and my mother.

Q. And where did your widowed sister, where did she go?—A. Strathmore Road.

Q. Right around from where you are?—A. Yes, sir.

Q. Your uncle, Joseph Di Pesa, lives with them?—A. No, he doesn't.

Q. Calls on them a great deal?—A. Calls and visits.

Q. Doesn't he hire the house at Strathmore Road?—A. The son, Mr. Leonard, my sister's son.

Q. How old is he?—A. Twenty-five. He is across now.

Q. The brother's name is?—A. William.

Q. But Joseph Di Pesa, your uncle, calls on the house at Strathmore Road very often?—A. No, not often.

Q. What do you call often?—A. Two or three times a year, if you call that often.

Q. Haven't I seen him out there more than that this year?

Mr. BROGNA. If Mrs.——

Mr. O'CONNELL. You are all getting excited. It is because we are getting information. Try to contain yourself. I know it's hard.

Q. Now, who paid the rent at 56 Summit Avenue?—A. Mr. Di Pesa, Hotel Napoli. I think the checks were made out "Hotel Napoli."

Q. Hotel Napoli pays for it?—A. Yes.

Q. Who went on the lease?—A. We owned that house.

Q. You owned that house. Now, then, who owns the house at Strathmore Road?—A. Nobody owns it.

Q. What number Strathmore Road is it?—A. That is 15. Are you referring to where my sister lives?

Q. Yes.—A. 15.

Q. That's just around the corner?—A. Well, not far.

Q. Only a short step, and your building, of course, is right near there; you are near the corner of Chestnut Hill Avenue, and that's right up—A. Yes, sir.

Q. And that's kind of a triangle and the two streets come together, Chestnut Hill Avenue and Strathmore Road?—A. Yes, sir.

Q. Isn't this the situation, Mrs. Scotti, after leaving 56 Summit Avenue, your father hired the house 1875 Commonwealth Avenue, and into that apartment you and your mother have gone with all your father's furniture, and that your brother, or rather your uncle, Joseph Di Pesa, went with the rest of the family; that is, your sister and her children, into Strathmore Road, which

is right around the corner, and in the same neighborhood with you?—A. Yes, sir.

Q. Nobody goes to 56 Summit Avenue now?—A. No; we have sold that house.

Q. You know the two Di Peses, your father and your uncle, are a higher type of men and are a higher typed class of people than are accustomed to live at Hotel Napoli, don't you?—A. Well, is that a reflection on the Napoli?

Q. No; I'm just telling you, giving it to you right, isn't that so?—A. If you will put that question again to me.

Q. Isn't that true?—A. Are you reflecting on the Hotel Napoli?

Q. I am reflecting on nobody, madame. I am not casting a reflection on anybody. I am rather complimenting the Di Pesas, and rather have it a compliment than a reflection, because you are my neighbors in the first place and very pleasant acquaintances in the second. Isn't it true that both your father and your uncle are gentlemen with refined tastes, and that you like to live in a nice place with nice surroundings?—A. Yes, sir.

Q. And isn't it true that the residence where you and your mother live, where your father's property and furniture is, and where your uncle, Joseph, lives right around the corner, is a much nicer place than where the Hotel Napoli is located?—A. Where my mother and I live is much nicer than where the Hotel Napoli is, sir.

Q. And there your father would naturally prefer to live?—A. He would prefer to live.

Q. In these nicer surroundings than the Hotel Napoli?—A. He would prefer by far if his business allowed it and his health allowed it.

(Counsel for the petitioner hold a conference.)

Mr. BERMAN. While counsel are conferring we will take a recess of five minutes.

Mr. O'CONNELL. No; I'd rather not. I'd rather finish with this young lady.

Q. Now, Mrs. Scotti, have you talked with your uncle, Joseph?—A. I have. About the summons, you mean?

Q. Yes.—A. No.

Q. Have you seen him recently?—A. Saw him Sunday, but I forgot to mention it.

Q. You got your summons last Friday?—A. Yes; I believe Friday.

Q. And didn't your father and your uncle have a consultation of war about this thing?—A. They didn't, didn't at all; weren't at all frightened, because they knew I had done nothing out of the way.

Q. Nobody ever accused you; don't think I accused you, except I wish you were a little bit more willing to come my way.

Mr. BROGNA. I object.

Mr. BERMAN. Counsel and witness are getting along nicely.

Mr. BROGNA. Getting along nicely, I agree. He should be instructed by the court to ask questions.

Mr. BERMAN. Mr. O'Connell is going along perfectly all right.

A. You ask all the questions you want and I will answer them.

Q. Surely. I wish you would try to give the answers—A. I will give the truth. You can't expect more than the truth.

Q. There's two ways of telling the truth.—A. Only one way of telling the truth, isn't there?

Q. No; there's only one way—

Mr. BROGNA. I want to insist he conduct this examination by asking questions.

Mr. BERMAN. Anything Mr. O'Connell is saying, or you are saying, is going in the record.

Mr. BROGNA. It's going in the record.

Mr. BERMAN. I don't think anything Mr. O'Connell has said would be represented; he would be represented that he didn't act properly at this hearing.

Mr. O'CONNELL. I call your attention to my young brother. He is white with rage.

Mr. BERMAN. Proceed, Mr. O'Connell.

Q. Now, Mrs. Scotti, have you ever been in the Hotel Napoli in the last three years?—A. You mean to live?

Q. Yes.—A. Never, never lived there.

Q. Your mother never lived there?—A. No.

Q. Neither has your sister, with whom Joseph Di Pesa lives?—A. Joseph Di Pesa doesn't live with my sister.

Q. He calls at her home frequently?—A. Two or three times a year—Christmas, Easter, and in between.

Q. Is that all?—A. Just about.

Q. Just about. What do you mean?—A. I wouldn't say he calls outside of those two times. I wouldn't say he called more than twice.

Q. You don't live at the Hotel Napoli?—A. I don't live there. I only stayed there when my father was ill, and dangerously ill. I stayed over night then.

Q. That was the time your sister was ill?—A. Yes, sir.

Q. That was when?—A. Two years ago.

Q. Neither does your sister live there?—A. She doesn't live there.

Q. Did I understand you to say your father doesn't own an automobile?—A. No; not any. He can't ride any distance.

Q. Who does own the automobile?—A. My brother has an automobile.

Q. What is his name?—A. Alfred Di Pesa.

Q. He lives with you?—A. No; he lives at the hotel.

Q. At the hotel?—A. Yes, sir.

Q. Is he married?—Yes; he is married.

Q. Any children?—A. No.

Q. Where does his wife live?—A. In the winter she comes in town and takes a furnished apartment a short while, but their place is at Nantasket.

Q. At the Villa Napoli, at Nantasket?—A. Yes, sir.

Q. And she comes in town—where does your brother live?—A. He has to live, has to have a place to live, and, where they are living now?

Q. Yes.—A. In the Fenway.

Q. How long has he lived in the Fenway?—A. This winter.

Q. That is, when he came up from Nantasket he lived there?—A. Yes, sir.

Q. Where did he live before he went to Nantasket?—A. Newbury Street.

Q. Newbury Street and the Fenway are both in the Back Bay section of the city, far from the Napoli?—A. Walking distance.

Q. Three miles?—A. Yes. We are great walkers——

Q. People usually take a car?—A. It runs in our family.

Cross-examination by Mr. BROGNA:

Q. Just one question. Joseph Di Pesa is unmarried?—A. Yes, sir; unmarried. (Recess.)

Mr. BERMAN. Call the next witness, Mr. O'Connell.

Mr. O'CONNELL. Has Mrs. Scotti gone? I want to call attention to the fact that immediately on leaving the stand she had a conference with Senator John I. Fitzgerald.

Mr. BROGNA. Does my brother want to testify again?

Mr. O'CONNELL. I am stating a fact. If you all agree we want the facts, we will put it in the record; it is a fact.

Mr. BROGNA. If you will take the stand, and be sworn in, and state a fact the same as other witnesses, I will submit.

Mr. BERMAN. I rule it may go in the record and it will show of whatever value it is.

HERBERT H. BOYNTON recalled:

Redirect examination by Mr. O'CONNELL:

Q. Your name is?—A. Herbert H. Boynton.

Q. And you are?—A. Deputy Secretary of the Commonwealth.

Q. You testified last week, Mr. Boynton, and were excused to get some further information. Have you brought down the list of the voters of Massachusetts who were in the Army and Navy or National Guard, which lists were submitted to the Boston Election Commission?—A. Pardon me, don't you want to ask that question for the city of Boston, alone? There are 190,000 in the list.

Q. I will state the election commissioners of the city of Boston.—A. Yes; I have it.

Q. Approximately, how many names are contained in this list?—A. I am informed approximately 50,000.

Q. Can you tell me when the first list was submitted to the election commissioners of the city of Boston?—A. July 5, 1918.

Q. And can you tell me whether they were received?—A. Well, each lot was sent in a different time. I marked on each lot as an exhibit the date sent and date they were returned. That is one lot. That is draft No. 1. Each lot is marked separately as they came to us from the National Guard.

Mr. BERMAN. Can you pick out the names of those living in the tenth district?

Mr. O'CONNELL. Oh, yes; all districts.

Mr. BERMAN. I mean readily.

Mr. BOYNTON. Yes, sure; readily.

Q. The first list containing 152 pages of names was sent to the election board on July 5, 1918, and received back by your office on July 12, 1918?—A. Yes.

Q. The second list, containing 145 sheets of National Guard was sent on July 12 and received back on August 19?—A. Yes.

Mr. HARRINGTON. May I suggest how many are put in there, or how many are on a page?

Mr. O'CONNELL. Well, there's [counting them] approximately 26 names on a page.

Mr. HARRINGTON. Verify that, Mr. Boynton.

(Witness counts names on a page.)

Mr. O'CONNELL. That's about right, Mr. Boynton, 26 names on a page.

Q. Sheet No. 3 being sheet of names in the Army, containing 106 sheets, was sent on July 15 to the Boston board of election commissioners and received back in your office August 21, 1918?—A. August 21, 1918, is the date.

Q. The next one?—A. Naval reserves.

Q. Was the list of naval reserves, copies of 25 sheets, sent July 15, 1918, and received back at your office July 25, 1918, that's true?—A. Yes.

Q. The next list which was sent was copies of 92 sheets of men in the Navy, which were sent on July 17 and received back August 13 at your office?—A. Yes.

Q. The next list that was sent was copies of 136 sheets of men in the naval reserve No. 2, sent on July 27, Boston election commissioners, and received back from them August 21?—A. Yes.

Q. The next list sent was one of the Army, copies of 21 sheets of names sent on August 3, and received back, to the board of election, and received back by your office on August 20?—A. Yes, sir.

Q. The next list was another of the Army, names of men in the Army, copies of 46 sheets, was sent by your office to the office of the election commissioners of the city of Boston, August 3 and returned on August 20?—A. Yes.

Q. The next list seems to be that of Marine Corps, copies of 11 sheets of names in the Marine Corps, was sent by your office to the office of the election commissioners of the city of Boston on July 31 and received back by you on August 13, that's right? Or 31st, which is it? It's either one or the other.—A. Thirty-first.

Q. The next one seems to be a list of names of men in the aviation, which list was sent by your office to the election commissioners of Boston July 31 and received back in your office on August 13, that's right?—A. Yes, sir.

Q. The next seems to be a list of 42 sheets. How many sheets in that aviation?—A. Ten.

Q. The next seems to be a list of Army, 3 and 4, 42 sheets, sent by your office on July 31, 1918, to the Boston election commissioners and received back at the secretary of state's office on August 13?—A. Yes.

Q. The next seems to be a list of names of men in the Fourteenth Engineers, being a list, copies of nine sheets of names sent by your office on July 31 to the office of the election commission, city of Boston, and returned to you by them on August 13?—A. Yes, sir.

Q. Now, what was the purpose of sending those names to the election commissioners?

Mr. BROGNA. I object.

Mr. BERMAN. Note Mr. Brogna's objection. Question is admitted.

A. The purpose was to discover the number of registered voters, in order that applications of registration as absent voters might be sent to them.

Q. Now, have you got the date on which the Boston board of election commissioners sent you the return of the vote of the primaries of September 24?—A. The envelope on which that date was placed has been destroyed, and to the best of our recollection it was filed on October 4 or 5.

Q. Now, what was the last day for filing objections to nominations?

Mr. BROGNA. Now, this is a matter of law. It has been put in already.

Mr. BERMAN. He is asking Mr. Boynton, deputy secretary of state, what that law is for the State.

A. September 30, 5 p. m.

Q. Did Mr. Henry V. Cunningham, of the election commissioners, ballot law commission, call your attention to the fact that it was decided that we should have here the date on which he filed his— A. Decree?

Q. Decree?—A. He did not.

Q. Can you tell at the present time what time that decree was filed?—A. I can, by furnishing you this afternoon a certified copy of it.

Mr. O'CONNELL. Will that be satisfactory to you?

Mr. BROGNA. Satisfactory to me.

Mr. O'CONNELL. All right.

Mr. BROGNA. The certified copy, I take it, will show the date it was filed?

The WITNESS. Yes.

Q. Who had charge of the printing of the ballots for State election?—A. I did.

Q. And when were the ballots for the State election on November 5 printed?—

A. You mean for the entire State?

Q. Yes.

Mr. BERMAN. For this district.

Mr. O'CONNELL. Wait a minute.

A. They were completed the Saturday preceding the election or the primary.

Q. That was November 2.

Mr. BROGNA. Election, not primaries.

The WITNESS. The election, November 5. That would be Saturday, preceding November 5, when our ballots were completed.

Mr. BERMAN. The 2d of November.

Mr. O'CONNELL. That's what I said. That would be November 2.

Q. When were the ballots printed for the tenth congressional district?—

A. They were completed on the Saturday preceding the election. As to the detail, in detail I couldn't give you that; that's a matter for the printer.

Q. When was the copy sent to the printer for that district?—A. The original copy was sent at least a week prior to the date on which the ballots were delivered. I might say, for your information, that we send the original copy, not holding it up for the recount. It is much cheaper for us to send that than hold up all the printing.

Q. As I understand, the printing started without regarding the fact a hearing was going on before the Ballot Law Commission?—A. Yes, sir.

Q. A hearing at the statehouse and they didn't send down their decision until October 29?—A. Yes.

Mr. BROGNA. Those lists of names, Mr. Boynton, are prepared by whom?—

A. Prepared in our office by my clerks.

Q. And information from which those were compiled was received from whom?—A. Taken from card indexes in the adjutant general's department.

Q. By somebody in your office?—A. Somebody in our department.

Q. And were these prepared because you were compelled to do so, or advised to do so, by any law?—A. No, sir.

Q. So that— A. Pardon me. The names we were required by law to receive, but not the sending out of these lists, from 190,000 names we took off of those lists.

Q. And the sending of those lists to the election, Boston election commissioners was a voluntary act on the part of the secretary of state?—A. Yes; in order to determine those persons out of the 190,000 who were voters.

Q. Who, in your office, under the law, receives objections to nominations of candidates?—A. Would it be better for you to specify this particular case, because it might be by mail and it might be other ways.

Q. In this particular case, who received it?—A. I received it.

Q. If an objection was filed prior to the date of the return of the primaries by the election commissioners, would you have received the objection?—A. Yes.

Q. If the State Ballot Law Commission's decision had been such as to affect whose name would have gone on the ballot in the tenth congressional district, would your office have been in time to have other ballots printed by election day?—A. Yes.

Q. Do you know whether the Ballot Law Commission knew what was going on in the office of the State printer or not?—A. I do not.

Q. Do you recall that Mr. Cunningham kept in touch with your office from time to time as the hearing went on?—A. Yes.

Mr. O'CONNELL. I think that's all.

Mr. BERMAN. That's all.

Mr. O'CONNELL. Mr. Boynton, there is one question I would like to ask you.

Q. Do I understand the original of these names was sent back to you by the election commission, and checks made against them, as requested by your office?—A. Yes.

Q. These better be marked as an exhibit, Mr. Boynton.

Mr. BROGNA. Those, as I understand, are not the originals returned by the board of election commissioners?

The WITNESS. No, sir.

Mr. BERMAN. Perhaps they better be marked for identification rather than an exhibit.

Mr. O'CONNELL. We will have these marked as——

Q. Do you know how many of these names were checked off in the city of Boston?—A. No.

Q. No tabulated copy of them?—A. No.

Mr. BROGNA. Mind having me hear what you are saying, Mr. O'Connell?

Mr. O'CONNELL. If you want to know, I was conferring with my associate, Mr. Harrington.

Mr. BROGNA. I thought you were talking with Mr. Boynton.

Mr. O'CONNELL. No. He's an official of the State.

We better mark these anyway for identification.

Mr. BROGNA. Call these by names, call the exhibit.

Mr. O'CONNELL. Mark this list of 50,000 names as an exhibit.

Mr. BROGNA. Note my objection to those being allowed admitted as an exhibit.

Mr. O'CONNELL. In order that we may understand what they are, these are lists of 50,000 names sent to the Boston election commissioners for them to check up the men in the Army, Navy, Marine Corps, aviation, and Engineers——

Mr. BROGNA. Or National Guard.

Mr. O'CONNELL. Or National Guard.

Mr. O'CONNELL (to stenographer). You mark them.

Mr. BERMAN. Marked for identification.

Mr. O'CONNELL. Marked for identification.

(List of names marked for identification 2/26/19, all marked as one group.)

HERBERT H. BOYNTON.

ANGELO CARPINELLO:

Direct examination by Mr. O'CONNELL:

Q. Angelo, what is your full name?—A. Angelo Carpinello.

Q. Where do you live?—A. 3 Wiggin Street.

Q. Where do you vote?—A. North Bennett Street.

Q. What precinct is that?—A. Precinct 3.

Q. Do you know Ruggiero Di Pesa?—A. Yes.

Q. How old is he?—A. Ruggerio, I think about 56, 55, or 57; not sure.

Q. Widower is he?—A. Yes, sir.

Q. His wife died three or four years ago?—A. Yes, sir.

Q. Where does he live?—A. Well, he, sometime he live at my house.

Q. 3 Wiggin Street?—A. Yes, sir.

Q. By "sometime" you mean most of the time?—A. Well, no; sometime work in the hotel and he live there.

Q. When he don't work in the hotel he lives with you?—A. Some time; not all the time.

Q. How much of the time during the year does he live with you?—A. Month, two months, then go to work in the hotel. He say going to work in the hotel.

Q. What business is he in? What's his trade; isn't he a tailor?—A. Yes; tailor, yes.

Q. Wouldn't have a tailor working in a hotel, would you?—A. No, sir. He told me he do floor work.

Q. Now, as a matter of fact, his brother runs a liquor saloon on Hanover Street?—A. Yes; Frank, yes.

Q. Has Ruggiero got any children?—A. Yes, sir.

Q. Where do they live?—A. Well, one's dead in France in the Army; another is in the Army right here in Portsmouth.

Q. They were drafted from 3 Wiggin Street?—A. No, no, no, Mr. O'Connell.

Q. Where were they?—A. I don't know.

Q. Living at 3 Wiggin Street at the time they went in the Army or Navy?—A. Mean son?

Q. Yes.—A. No.

Q. Where does he live?—A. I don't know. Got a sister, I'm not sure; got a sister in Revere.

Q. Ruggiero has got a sister in Revere?—A. No; daughter there.

Q. Is she married?—A. Yes, sir.

Q. You think the boy might live with the sister?—A. I think so; I don't know. I'm not sure.

Q. You don't know?—A. Not sure.

Q. Who else lives at 3 Wiggin Street with you?—A. Nobody.

Q. But Ruggiero Di Pesa comes there when he is not working at the hotel?—A. Sometime; yes.

Q. During the last 10 years did he come there?—A. 10 years?

Q. Take any time recently?—A. Three years or four years.

Q. Didn't he come there before that?—A. He's a friend.

Q. To live?—A. No, no.

Q. Since he was a widower he came down to live on Wiggin Street from time to time?—A. No; because he work in the hotel.

Q. He stays there sometimes, don't he?—A. Yes.

Q. How often in the last three or four years?—A. I can't remember, Mr. O'Connell.

Q. Give us the best of your recollection?—A. Six months, see him in the hotel.

Q. Before that wasn't he there a good deal?—A. Some time.

Q. For how long was he there before that—was he there?—A. I won't say there a week; pretty near every two months, every three months, there a week; I am not sure.

Q. You talked with somebody recently about Ruggiero, didn't you?—A. When?

Q. To the investigator within the last month?—A. Nobody talking to me.

Q. Nobody talking to you?—A. No, sir. I got the summons; I don't know who it's from.

Q. Have you talked with anybody since you got the summons?—A. Yes, sir.

Q. Who?—A. To Mr. Brogna. I asked him why I got the summons. He says, "I don't know."

Q. You vote where Mr. Brogna does?—A. I don't know whether Mr. Brogna vote in my precinct or other precinct.

Q. Did you see Mr. Brogna election day when you go to vote?—A. Well, sometimes; yes.

Q. He was there at that precinct you vote in?—A. Yes.

Q. And what did Brogna tell you when you told him you were summonsed?—A. Mr. Brogna will tell me about anything I ask and I asked him to find out what it was and if he knows?

Q. What made you go to Brogna?—A. Yes; because I know him.

Q. Don't you know me, too?—A. I see Mr. Brogna first.

Q. You have known me before you know Brogna?—A. Yes, sir; before that.

Q. And you went to Brogna, who represented Mr. Fitzgerald, as soon as you got the summons?—A. I don't know——

Mr. BROGNA. Wait, wait.

Mr. BERMAN. No; let the witness testify.

Q. As soon as you got the summons Mr. Brogna went to see you?—A. He talked with me.

Q. He talked with you?—A. I says, "I got a summons."

Q. And that was right after Brogna got the list of voters that were summonsed?

Mr. BROGNA. He can't testify to that.

Q. Did Brogna come to you or did you go to Brogna?—A. Well, I thought it was Brogna, I don't see very well. If I saw Brogna I would ask him.

Q. Angelo, you know how to testify because you have been around the courts a great many years as interpreter?

Mr. BROGNA. I object to that.

Q. You don't object to that, do you, Angelo?—A. No.

Mr. BROGNA. He may have been your runner.

Mr. O'CONNELL. May have been what?

Q. I have seen you around the court as interpreter a great many years, haven't I, Mr. Carpinello?—A. Yes, sir.

Q. Now, when I asked you if you had seen Mr. Brogna, or Mr. Brogna had seen you, you understood what I meant?—A. Yes, sir.

Q. Which is it—He see me. He said, "What you here for?" I says, "I got a summons; I don't know why."

Q. What else did he say?—A. That's all. That's all. I told him I got a summons. He saw the summons, and he says, "You got to go in there."

Q. Oh, yes. Do you know Francisco di Pesa?—A. Yes, sir.

Q. Where does he live, Revere?—A. I don't know, Mr. O'Connell, I don't know.

Q. Where does he live, to your knowledge?

Mr. BROGNA. I object.

Mr. BERMAN. He may answer if he knows.

A. What do you mean, he is no relation to me?

Q. I know he is no relation to you. You know him, don't you?—A. Yes.

Q. When did you see him last?—A. This morning.

Q. Where?—A. In barroom.

Q. Where's that?—A. Hanover Street.

Q. Whose barroom is it?—A. I saw him, saw another party with him, don't know who it was.

Q. Whose barroom was it?—A. Di Pesa's barroom.

Q. Is that his barroom?—A. I think so.

Q. Or his brother's?—A. I don't know if it is his brother's.

Q. You saw him this morning?—A. See him there to-day.

Q. You talked with him about this case?—A. How did I know, Mr. O'Connell.

Q. I didn't ask you how you knew.—A. Saw in the paper.

Q. Did you speak to him about coming up here to testify?—A. Yes.

Q. He told you he was summoned?—A. Who; me?

Q. Yes.—A. I told him, yes.

Q. Did he tell you about living down in Revere?—A. No.

Q. What did he say about it?—A. Say come up to the post office.

Q. And what did he say about where he lived?—A. Say nothing.

Q. Did he say they have him in it, too?—A. No, sir; got to come up to the post office.

Q. Any particular reason why you came to see Francisco?—A. Reason, because I can't read the paper, and Mr. Francisco read the paper——

Q. Can't you read the paper?—A. Not very much.

Q. You have been an interpreter around the courts a great many years?—A. Not required in there.

Q. Do you know Joseph Di Pesa?—A. Yes.

Q. Where does Joe live?—A. I don't know. Mr. O'Connell.

Q. Can't you tell where Joe lives?—A. I saw him many times in the hotel.

Q. Where?—A. Hotel.

Q. What hotel?—A. Hotel Napoli.

Q. Ever been to his home?—A. I don't know.

Q. Ever been to his home?—A. No, no.

Q. Did Joseph Di Pesa ever tell you where he lived?—A. No.

Q. Didn't he tell you about the lovely home on the hill in Brookline that overlooked the whole city?—A. No, Mr. O'Connell. If he told me, of course I'd tell you about that.

Q. Didn't tell you where he lived?—A. No; I saw him in the Napoli Hotel, that's all.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. BROGNA:

Q. How long has Mr. Leonardo Di Pesa been working at the hotel, do you know?—A. He told me when he went there about a year ago.

Q. How many years ago?—A. About a year ago, he told me he worked there.

Q. About a year ago?—A. Yes; he told me, before, I knew he worked there, because I went there and saw him there.

Q. Did you know him when he had a tailor shop?—A. Yes, sir.

Q. How long since you have known he had a tailor shop, how many years?—A. Six, about six or seven or eight years.

Q. And since six or seven years ago he has no longer worked as a tailor; isn't that so?—A. He don't work at tailor.

Q. How long is it since he has been working as a tailor?—A. I'm not sure, I don't know.

Q. He told you over a year ago he worked as a tailor?—A. Yes, sir.

Q. And he told you sometimes before that he worked at the hotel and didn't work as a tailor?—A. Yes; he told me years ago; I don't remember where he had been.

Q. Well, within one year, from February last year until this year, how many weeks has he been in your house to live?—A. Inside six months?

Q. No; inside a year.—A. One year. Well, I don't know. Two or three months—don't know for sure.

Q. And the other 9 or 10 months where has he been living?—A. Well, Napoli Hotel.

Q. Hotel Napoli?—A. Yes.

Q. When did you receive your summons to come into court? What day did you receive it?—A. Last week.

Q. What day?—A. Friday.

Q. After that time, when was the first time that you saw me?—A. This morning.

Q. Where?—A. In the corridor there.

Q. In the corridor here, outside the court room?—A. Yes.

Q. And you talked to me in the corridor?—A. Yes.

Q. In the presence of many people?—A. Yes, sir.

Q. Did you see Mr. O'Connell around at that time?—A. No, no. I had not recognized him at that time.

Mr. O'CONNELL. If I was there you would have recognized me?

The WITNESS. Yes, sir; because I——

Mr. BROGNA. Mr. O'Connell, you didn't show up this morning until 11 o'clock, and I ask that go into the record.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I hereby certify that the foregoing in this volume, containing about 97 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

MARCH 1, 1919—10 A. M.

Counsel present as before.

Notary BERMAN. The hearing will now be resumed.

Mr. O'CONNELL. Will you call the list of witnesses and see who are present? List of witnesses summoned for to-day read by Notary Berman, as follows:

Mr. HARRINGTON. I want to remonstrate against Mr. Brogna telling the witnesses that they don't have to testify, which he has just done.

Mr. BROGNA. This witness approached me and wanted to go away. His name apparently was not called by the judge, and I said it didn't appear on the list given to us. I told him to ask you [Harrington] that you are the man who gave him the summons and in your presence I said "You are not on my list."

Mr. HARRINGTON. "And didn't have to testify."

Michael J. Fitzgerald called as a witness by Mr. O'Connell.

Mr. O'CONNELL. Will you be good enough, Mr. Notary, to call the name of Michael J. Fitzgerald?

Michael J. Fitzgerald called by the notary.

Mr. O'CONNELL. I might state for the information of Mr. Callahan in order that he may understand the significance of this that Michael J. Fitzgerald is a brother of John F. Fitzgerald living in Winthrop, who has been summoned and does not appear.

Next witness, Thomas F. Bose, called by Notary Berman and no response.

Mr. John O. Moylen called by Notary Berman and no response.

Mr. O'CONNELL. In the case of Bose, who has just been called, we will show that he voted from the Quincy House and that he lives in Dorchester.

Mr. CALLAHAN. I don't think you have the right to read that into the record. Put him on the stand.

Mr. O'CONNELL. John O. Moylen, we will show that he voted from the rear of 14 Causeway Street and that he resides in Revere at 128 Walnut Street.

William J. ———, called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we will show that he voted from the Hotel Lucerne on Causeway Street and he lived at 15 Claxton Street.

(Mr. Callahan's objection noted.)

W. J. Malberhill called by Notary Berman. No response.

Mr. O'CONNELL. We will show that he voted from 31 Lynde Street, when he lives at 346 Broadway, Cambridge.

Joseph J. Lovin. In this man's case we will show that he voted from the Lincoln House, whereas as a matter of fact he lives at 28 ———.

Moses Crovitz called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we are going to show that he voted from the Hotel Lucerne on Causeway Street, whereas he lived at 72 Myrtle Street.

Michael F. Durant called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we will show that he voted from 37 Bilerica Street, Boston, whereas he lived somewhere else than Boston.

Philip J. O'Hern called by Notary Berman. No response.

Mr. O'CONNELL. We will prove that this man voted from 76 Green Street, whereas he lived at 130 Myrtle Street.

(Mr. Callahan's objection noted to this procedure.)

Charles F. Gallagher called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we will prove he voted from the Hotel Lucerne, whereas, as a matter of fact, he lived at 42 Beach Street, Winthrop.

Charles M. Hollinder called by Notary Berman. No response.

Mr. O'CONNELL. We will prove that he voted from 37 Leverett Street, whereas, as a matter of fact, he lived at Fenway Street, Boston.

Charles Hart called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we will prove he voted from the Lincoln House, whereas, as a matter of fact, he lived at 23 Irving Street, Boston.

John Lomasney called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we will prove that he voted from the Bowdoin Hotel, Boston, whereas he lived somewhere else.

John L. Smith called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case will prove that he voted from a hotel at 19 Causeway Street, in this district, whereas, a matter of fact, he lived elsewhere.

James F. Brown called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we will prove that he voted from the Hotel Lucerne, Boston, whereas, as a matter of fact, he lived elsewhere; Somerville, I believe.

Philip S. Doherty called by Notary Berman. No response.

Mr. O'CONNELL. In this man's case we will prove that he voted from the Lincoln House, in ward 5, whereas, as a matter of fact, he lived at 196 Main Street, Charlestown.

Neal E. Callahan called by Notary Berman. No response.

Mr. O'CONNELL. We will prove that he voted from 30 Causeway Street, Boston, whereas, as a matter of fact, he lived elsewhere.

Edward Clark called by Notary Berman. No response.

Mr. O'CONNELL. We will prove that he voted from the Hotel Brewster, Boston, whereas, as a matter of fact, he lived elsewhere. And we will also prove that Mr. Edward Clark is an associate and a companion of John F. Fitzgerald that has not responded to this summons.

John R. Murray called by Notary Berman. No response.

Mr. O'CONNELL. We will prove that he voted from the United States Hotel, whereas, as a matter of fact, he lives elsewhere. In this man's case, although summoned and although he is a court officer working in our Suffolk County courthouse, he does not respond to the summons.

I will now offer the returns made by the marshal for the summoning of these witnesses that have been called, and I also want to state that each and every one of these men who have been called all voted in ward 5. Each one of those places designated are in ward 5.

(Mr. Callahan's objection noted.)

Notary BERMAN. In reference to the witnesses summoned here this morning, Mr. Charles M. Hollinder I know to be out of town. He is in New York, and I want to ask counsel to remember in asking for capias to remember that Charles M. Hollinder is employed wholly away from this jurisdiction.

Mrs. Margaret E. McCarthy called, and considerable discussion between counsel as to her right to testify, Mr. Callahan not having received notice that she was summoned to appear here to-day.

Mrs. McCarthy ordered by Notary Berman to stay until called.

Mrs. Dower also called to appear here this morning, and considerable discussion as to her right to testify, Mr. Callahan not having been notified.

Mrs. Dower ordered by Notary Berman to stay until called to testify.

Colloquy between counsel and Notary Berman as to whether or not he changed his ruling that a witness could not testify without notice having been given to Mr. Callahan unless the witness appeared as a voluntary witness.

Mr. O'Connell stated that this woman was the mother of 11 children, and it was a matter of great convenience to her to testify now that she was here than to be brought back again.

Notary BERMAN. Does the witness signify any choice in the matter?

Mrs. McCARTHY. If I have got to come again I would much prefer to testify to-day, although I don't know anything.

Mr. CALLAHAN. I want a decision. I don't care what this witness prefers.

Notary BERMAN. Do you appear here voluntarily?

Mrs. McCARTHY. No; I appeared by a summons.

Notary BERMAN. You were called by a summons?

Mrs. McCARTHY. Certainly.

Notary BERMAN. Thinking you were going to be called upon to testify?

A. (By Witness). Yes, sir.

Notary BERMAN. And would rather testify to-day than any other time?

A. (By Witness). Yes.

Mr. CALLAHAN. I want a decision whether you have changed your decision of last week.

Notary BERMAN. I have not changed my decision of last week. You may note Mr. Callahan's objection and proceed.

Mr. CALLAHAN. We have not received any notice of this woman's testifying. We are entitled to a notice under the statute and we want to call attention for the purpose of the record that the notary has changed his decision of last week, if he doesn't admit it.

Notary BERMAN. The notary has not changed his decision of last week and is respecting the rights of all parties, including the witness herself. Mrs. McCarthy signifies her desire to testify now and will testify if she chooses.

(Colloquy between counsel and Mr. McCarthy, son of Mrs. McCarthy, to the effect that she does not have to testify unless she desires to.)

Mr. BROGNA. You don't have to testify if you don't want to.

Mrs. MARGARET McCARTHY sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Margaret McCarthy.

(Mr. Callahan's objection noted to this witness testifying because he had received no notice of it.)

(Witness allowed to testify by Notary Berman.)

Q. Where do you live?—A. 180 Mt. Vernon Street, Malden.

Q. And you are married and live there with your family?—A. Yes, sir.

Q. How many are there in your family?—A. Eleven children.

Q. What is your husband's name?—A. David J. McCarthy.

Q. What is his business?—A. A tile layer.

Q. And for whom does he work?—A. I don't know the name of the firm. My son can tell you.

Q. On Corn Hill, Boston?—A. Yes, sir.

Q. How old is your husband?—A. Forty-five years old.

Q. How large a man is he?—A. About 5 feet 10 or 11.

Q. How long have you been living at 180 Mt. Vernon Street?—A. About six months.

Q. And before that where did you live?—A. 30 Gordon Street.

Q. Where?—A. In Malden.

Q. And how long did you live there?—A. Two years.

Q. And did you live there with your husband and family during those two years?—A. Yes.

Q. Do you rent the house?—A. Yes, sir.

Q. Your husband rents the house?—A. Yes, sir.

Q. Do you know where he votes?—A. Yes.

Q. Where?—A. Yes; in Malden.

Q. Do you know where he votes there?—A. He votes at ward 5, I believe, in Malden. I wouldn't be sure about that though.

Q. Did you ever live at 61 Allen Street, Boston?—A. No, sir.

Q. Ever know of your husband to live at 61 Allen Street, Boston?—A. No, sir.

Q. He never told you he had lived at 61 Allen Street?—A. He never did live there.

Q. And he was living in Malden on the 1st of April last year?—A. Yes, sir.

Mr. O'CONNELL. That is all.

MARGARET E. MCCARTHY.

Mrs. JULIA DOWER sworn:

Objection to this witness testifying by Mr. Callahan because he has received no notice.

Mr. CALLAHAN. I want this marked as an exhibit. This is a summons to Julia Dower. This is a summons to Julia Dower, 43 Washington Street, Charlestown, to appear at room 443, Post Office Building, March 1, 1919, at 9.30 o'clock in the forenoon. It is signed by Mr. Berman, notary public, and served by Christopher Ghiloni.

(Mr. Callahan's objection noted.)

Mr. O'CONNELL. Mr. Callahan has received notice that this witness would be examined on February 25.

Said summons offered in evidence and marked Ex. 29; letter, Ex. 30.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Julia Dower.

Q. Where do you live?—A. Forty-three Washington Street, Charlestown.

Q. How long have you lived there?—A. Eight years.

Q. Do you know Eugene Doherty?—A. Yes, sir.

Q. Do you know where he lives?—A. He lives with me at 43 Washington Street.

Q. How long has he lived there?—A. Four years.

Q. What is his business?—A. Laborer.

Q. How old a man is he?—A. About 27 or 28 years of age.

Q. And what does he do?—A. He works in the Boston & Maine Produce Co.

Q. Did you ever know him to live at 152 Front Street, Boston?—A. No, sir.

Q. During the last four years?—A. No, sir.

Q. During the last four years he has always lived with you?—A. Yes.

Mr. O'CONNELL. I think that is all.

Cross-examination by Mr. CALLAHAN:

Q. You came here this morning because you were summoned?—A. Yes, sir.

Q. You didn't volunteer to come here?—A. I knew I would have to come I suppose.

Q. You didn't volunteer?—A. No.

Q. If you didn't receive this summons to come here this morning, you would not have come?—A. No; I would not.

Q. You didn't tell anybody you would be glad to come?—No, I did not.

Q. You didn't tell anybody you wanted to come?—A. No.

Q. Tell Mr. O'Connell or any of his friends that you wanted to come?—A. No, sir.

Q. And any evidence that you have given this morning is because you received this summons?—A. Yes, sir.

Q. When did you receive a summons to come here this morning?—A. I think it was Tuesday or Wednesday.

Q. Of this week?—A. Yes; Wednesday.

Q. You received a summons Wednesday to appear here this morning? Now, you weren't here before this week, were you?—A. No, sir.

Q. And you weren't summoned to come here before this week, were you?—A. No, sir.

Q. You didn't receive any summons to come here before?—A. No.

Q. And you didn't volunteer to come here at any other time, did you?—A. No, sir.

Q. Have you got your summons with you?

(Witness produces summons.)

By Mr. HARRINGTON:

Q. When you came here to-day you were perfectly willing to testify, weren't you, so that you wouldn't have to come back again?—A. Yes; I was.

Q. You said yourself you would rather testify to-day than come back again?—
A. Yes; I don't want to come back again if I can help it.

By Mr. CALLAHAN:

Q. You just had a talk with Mr. Harrington?—A. No; he didn't say anything.

Q. You didn't volunteer to come here?—A. No; I had to come.

Notary BERMAN. And now that you are here you want to save the inconvenience of coming again?

WITNESS. Yes; I don't want to come again. I can't come again.

THOMAS HENRY KEENAN, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Thomas Henry Keenan.

Q. How old are you?—A. 33 years.

Q. And what is your business?—A. Mason inspector.

Q. What is your mother's name?—A. Alice.

Q. And she lives at 25 Henshaw Street, Brighton?—A. Yes, sir.

Q. And you live there with her?—A. I am at present.

Q. How long have you been living there?—A. I have been living there since the 7th of last April, when my father took sick and was called home.

Q. Before that when did you live there?—A. I lived there off and on before the 23d of March.

Q. How long had you lived there before the 23d of March with your mother?
A. I can not say just exactly; I was back and forth.

Q. The situation is that on the 23d or 24th of March you lived there off and on?—A. Yes.

Q. Where did you go?—A. To the Hotel Haymarket.

Q. And stayed there until when?—A. The 6th of April.

Q. In other words, you went down to the Hotel Haymarket for the purpose of getting a residence there so you could vote in ward 5?—A. Not wholly.

Q. What other reasons?—A. I have always had my association with the West End.

Q. What part had you lived in?—A. McLean Street.

Q. How many years?—A. Twenty-four years.

Q. And then your family moved to Brighton?—A. Yes, sir.

Q. Your father was prominent with Mr. Lomasney in old ward 8?—A. Yes.

Q. In fact, he was the man who brought Lomasney out? Your father was one of the prominent men of ward 8, that is true, isn't it?—A. Yes, sir.

Q. And after a residence there of many years he changed his home to Brighton?—A. Yes, sir.

Q. And Brighton is in ward 25, another congressional district?—A. Yes.

Q. And you went to live with your father at that time when he went to Brighton?—A. When he first went there, yes.

Q. How many years had your father and mother lived in Brighton at the time your father died?—A. Seven or eight years.

Q. During those seven or eight years you didn't vote in Brighton?—A. I have never voted in Brighton and never intend to.

Q. Although your family lived in Brighton you took a residence on registration time in ward 5?—A. Not exactly at registration time. I have stayed at this hotel on and off throughout the years.

Q. Have you ever stopped at this hotel at other times except as a matter of convenience?—A. Yes, sir; I have.

Q. When did you stop at this hotel before?—A. I have been stopping there right along off and on.

Q. When was the last time before last spring at this registration time did you stop there?—A. Do you mean the last time I stopped there now?

Q. Yes.—A. My clothes have been in the Hotel Haymarket as late as—

Q. Answer my question. When was the last time?—A. My clothes and my room were at the Hotel Haymarket as late as last October.

Q. Will you tell the last day on which you stopped at the Hotel Haymarket?
A. I can not tell the exact date.

Q. Give it to us for your best recollection?—A. Some time in October.

Q. What was the purpose of your visit in October at the Haymarket?—A. For family reasons.

Q. What were the family reasons?—A. I refuse to tell.

Q. I was going to add unless you didn't care to express them. You don't care to tell them?—A. No, sir.

Q. How long had you been there that time?—A. I had been there a week.

Q. What was that week? What was the reason of your visit there at that time?—A. I have just answered you.

Q. Was it not as a matter of fact that you took up your residence then because the controversy of the recount between Tague and Fitzgerald had reached the ballot law commission and as a result of the notoriety that it then had you just went to the Haymarket and took up a residence at that time? Yes or no?—A. No, sir.

Q. It was at the time of the controversy, was or wasn't it?—A. It was near the time. I was there for other reasons.

Q. But it was at that time, wasn't it?—A. It was near it, yes.

Q. Did you tell anybody that you were going to cover yourself up and that you were going to take a residence down there?—A. Not to my knowledge.

Q. What do you mean "not to your knowledge"?—A. I don't remember ever telling anybody I was going to cover myself up.

Q. When before that did you ever live at the Haymarket?—A. I had been down there two or three times between that time and the 7th of April.

Q. When was it?—A. I haven't got the dates down.

Q. Give it to me as near as you can.—A. Saturday nights and Sundays, mostly.

Q. How many times have you gone to the Hotel Haymarket at about registration time? How many years have you been doing this?—A. I have voted from that residence for about five years.

Q. During those five years your family, father, and mother, lived in Brighton until your father died?—A. Yes, sir.

Q. And registration time is April 1 in Massachusetts, in Boston?

Mr. CALLAHAN. You can't answer that, for it is not so, of course, Mr. Keenan.

Mr. O'CONNELL. For a man to be able to vote on election day he must be registered on April 1.

Mr. CALLAHAN. He can not know that, for, of course, it is not so.

Q. You receive your mail at 25 Henshaw Street, Brighton?—A. At the present time; yes.

Q. And you have received it there ever since you went there, with the few intervals, possibly, of when you were not there?—A. When I was at 25 Henshaw Street my mail came there, and when I was not there it didn't come there.

Q. The summons served on you found you at 25 Henshaw Street, Brighton?—A. It did.

Q. You came from there this morning to testify?—A. No, sir; I did not.

Q. Where is your residence to-day?—A. 25 Henshaw Street, Brighton.

Q. And up to the 23d or 24th of March it was your residence?—A. At that time; yes.

Mr. O'CONNELL. That is all.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Keenan, will you tell us why you went out to Henshaw Street on the 7th of April or thereabouts?—A. On the 7th of April I had word that my father had had a shock, and I gave up—it was my intention of staying in the Haymarket. I went out owing to my brother being in the medical service for a year and a half, and I went for that reason to stay with my mother.

Q. Directly after that your father died?—A. He lingered until the 10th of October.

Q. And you stayed there all that time?—A. Yes; to the present time.

Q. Living with your mother?—A. My mother and my two sisters.

Q. Your mother was summoned here this morning?—A. Last Monday.

Q. How old is your mother?—A. 68 years old.

Q. And is she confined to the house?—A. She can not go outside. She can go around the yard, but no distance away.

Q. How long has that been?—A. Ever since we went to Brighton and before that when we lived in the West End.

Q. That is how long?—A. Twelve years.

Q. Twelve years confined to the house?—A. Yes.

Q. Are you married or single?—A. Single.

Q. From that time in March until the 7th of April you lived at the Haymarket?—A. Yes, sir.

Q. And what did you consider your home at that time?—A. Hotel Haymarket.

Mr. CALLAHAN. That is all.

Redirect examination by Mr. O'CONNELL:

Q. Isn't this the state of affairs. Having been born in the West End: old ward 8, now ward 5, in which your father took a very prominent part in its affairs, after he decided to move to Brighton, which he did five or six years ago, that you desired to continue your voting in old ward 8 or new ward 5, and for that reason principally?—A. Being a single man I can vote where I please and therefore I decided I wanted to vote in ward 5, while I am not affiliated with any faction.

Q. It was a matter of sentiment?—A. Because I wanted to vote in ward 5.

Q. And you chose the Haymarket as a place in order to do that?—A. I took it up as a residence. Not in order to vote.

By Mr. CALLAHAN:

Q. How old are you?—A. 33 years.

Q. And when you were 21 you voted in that district?—A. I voted in ward 8, precinct 8.

Q. That is now ward 5?—A. Yes.

Q. And you have voted there since you were 21?—A. Yes.

Q. You never voted anywhere else?—A. No, sir.

SYLVESTER O. DE ROSEY, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Sylvester O. De Rosey.

Q. You were summoned to appear here?—A. Yes.

Q. Where did you receive your summons?—A. Hotel Lucerne, Causeway Street, where I work.

Q. What is your business?—A. Bar tender.

Q. You are the brother of Mrs. George Mooney?—A. Yes.

Q. At 761 Broadway, Somerville?—A. Yes.

Q. You are a single man?—A. Yes.

Q. You vote from where?—A. From the Lucerne Hotel, 58 Causeway Street.

Q. What is the number of your room there?—A. 333.

Q. Do you have that room all the time?—A. No, sir.

Q. What part of the year do you have that room?—A. I ain't particular what room I have. I voted from there; pay by the week.

Q. Can you remember what room you were living in at the Hotel Lucerne on the 1st day of April—last April?—A. 333, to my knowledge.

Q. When did you register there in that room?—A. I don't have to register; I pay by the week.

Q. Did you register at the Hotel Lucerne?—A. Yes.

Q. When? Sometime in February?—A. March.

Q. What room did you get then?—A. I didn't notice the number.

Q. When did you get room 333?—A. I been there since the place was built, and never took any notice.

Q. When did you get room 333 that you said you had on April 1?—A. Some time last winter.

Q. When?—A. In February.

Q. What was the occasion of your getting room 333 at that time?—A. No occasion at all. It was the room they gave me.

Q. Who gave it to you?—A. Mr. Sullivan.

Q. What is Mr. Sullivan's address and what is his full name?—A. I don't know, sir.

Q. Where does he live?—A. I don't know.

Q. When did you see him last?—A. Wednesday night.

Q. Where?—A. At the Hotel Lucerne.

Q. Did you have any talk with him when he gave you this room?—A. No, sir.

Q. How did you know you were given that room?—A. I could see by the number. I went to the bathroom and on my way back I went to look at my key. That is the only time I ever took any notice of that room number.

Q. Did you sleep in that room?—A. I guess I did.

Q. When?—A. Ever since I lived there.

Q. When have you ever slept in that room?—A. Last Wednesday night.

Q. Did you sleep in it last night?—A. No, sir.

Q. Or the night before?—A. No, sir.

Q. You didn't sleep in it last Tuesday night?—A. Wednesday night.

Q. Was that the day of the summons?—A. No.

Q. When did you get the summons to appear here to-day?—A. Tuesday, I think.

Q. You got the summons Tuesday night and you slept in this room on Wednesday night; that is right, isn't it?—A. I don't know when I got the summons.

Q. But you think it was Tuesday?—A. Yes.

Q. And on Wednesday night you went to sleep there?—A. Yes.

Q. Didn't you go to sleep there in order to be able to come in and say you were still living there?—A. No, sir.

Q. When you got this summons what did you do?—A. What did I do?

Q. Yes.—A. I asked the fellow what authority he had to give me that summons for. That is all I did.

Q. And he showed it to you?—A. Showed me his badge.

Q. And then did you go to the clerk of the hotel, Mr. Sullivan?—A. No, sir.

Q. When did you see Mr. Sullivan?—A. I see Mr. Sullivan? Mr. Sullivan was not there.

Q. When did you see him last week?—A. Thursday morning.

Q. Didn't you tell me a while ago that you saw him on Wednesday night?—A. I can go there without seeing him. Sometimes I didn't look at the desk at all.

Q. Didn't you tell me a little while ago in your testimony here that you last saw Mr. Sullivan on Wednesday?—A. No; I didn't say I had seen him.

Q. When did you say you had seen him? Mr. Sullivan gave you a room?—A. Yes, sir.

Q. What did you say as to when you last saw Mr. Sullivan?—A. I didn't say. Thursday morning.

Q. Where did you see him Thursday morning?—A. Down at the desk.

Q. Who did you see after you got the summons between the time you got it and time you saw Mr. Sullivan?—A. Mr. Devlin.

Q. Who is he?—A. He was at the Hotel Lucerne on an errand for his wife.

Q. That has nothing to do with this case?—A. I am telling you.

Q. Did it or did it not? I want to know if it did. Did Mrs. Devlin come to you in reference to this summons?—A. No, sir.

Q. Did she come to you in reference to any summons?—A. No, sir.

Q. Did you talk to her about it?—A. No, sir.

Q. Did you talk with anybody in reference to this case?—A. No, sir.

Q. Are you sure about that?—A. Positive.

Q. Did you spend a great deal of your time in Somerville?—A. As soon as my sister's boy went away and on account of the heating business—I went there and piped her house for her and also made some repairs to her hot-water heater. If I slept very late I wouldn't have time to go out there, so I would stay all night. I would go out to finish up the work I was doing for her to save expense.

Q. You have had a key to her house for a long time?—A. Yes.

Q. And always have had it?—A. No, sir.

Q. How long have you had the key?—A. Just about two or three months, as I am doing the work out there for her.

Q. When your sister tells us she gave you a key and that you have always had a key since she has lived in the house she must be mistaken?—A. She made a mistake, because I never had a key until I went out and did that work for her. That is what carries me out there.

Q. You are registered at the Lucerne in order to be able to vote there?—A. I was always registered there.

Q. And for the same purpose?—A. I ain't lived in Somerville for 25 years. I have always lived in Boston—got to vote somewhere.

Q. Do I understand you wanting to hold yourself out to the world as living permanently in the Hotel Lucerne?—A. If I feel like—

Q. Do I understand you to say—this is under oath and a matter of permanent record and I want to get this thing right. Bearing in mind all your business relations, the organizations that you belong to, the addresses that you have given as your residence, do you want now to state that your residence is at the Hotel Lucerne in Boston?—A. Yes, sir.

Mr. O'CONNELL. All right.

Cross-examination by Mr. CALLAHAN:

Q. Are you married or single?—A. Single.

Q. And what do you consider your home residence on the 1st of April of last year?—A. 68 Causeway Street.

Q. And I understand now you have a key to your sister's house?—A. Yes, sir.

Q. Fixing her heater?—A. For business, because she is out all the time and she gave me a key so I could go in.

Redirect examination by Mr. O'CONNELL:

Q. Doing some repairs on the heating apparatus; is that right?—A. Yes.

Q. Did you get any permit from the city of Somerville?—A. You don't have to get any permit.

Q. Any inspector look at the work?—A. No, sir; it isn't necessary.

Q. Answer my question.—A. You can make repairs, all the repairs you want to on a heater, and you don't have to have a license.

WILLIAM R. GALLAGHER, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. William R. Gallagher.

Q. Where do you live?—A. No. 5 Bowdoin Square.

Q. Where does your family live?—A. No. 236 Bay State Road.

Q. How long have they lived there?—A. Lived there since last November.

Q. And where before that did they live?—A. No. 115 Woodrow Avenue, Dorchester.

Q. And you lived out in Dorchester with them?—A. Not for three years.

Q. You were at home most of the time with your folks?—A. I have not lived with the folks for three years.

Q. You are now living with them at Bay State Road?—A. I said my folks were living there.

Q. And where are you registered?—A. No. 5 Bowdoin Square.

Q. What is that?—A. Hotel St. James.

Q. How long have you been living at the Hotel St. James?—A. Three years.

Q. Is that your permanent residence?—A. Yes, sir.

Q. Your mail goes there?—A. Yes, sir.

Q. Personal mail?—A. Yes.

Q. Where did you receive this summons?—A. I received it at the hotel.

Q. How long have you been interested in this Hotel St. James?—A. I have owned it since November, 1917.

Q. How many rooms are there?—A. One hundred and fifty-two rooms, I believe.

Q. Are there any permanent guests in it?—A. Yes.

Q. It is what is known as a transient hotel?—A. There have been guests there for 15 or 20 years; but most of it is transient.

Q. That was in other days, wasn't it?—A. No. There are still people that live there and have lived there for 20 years, 10 years, 12 years.

Q. What room have you there, Mr. Gallagher?—A. Rooms 39 and 40.

Q. Isn't it true that you also pass many nights on Bay State Road?—A. They only have a five-room apartment there and there is my mother and sister and father there.

Q. You always lived with them up to the time you went to the St. James?—A. When I came back from the border I went into the hotel business.

Q. Did you tell me the number of your room at the Hotel St. James?—A. Nos. 39 and 40.

Cross-examination by Mr. CALLAHAN:

Q. You are the owner and proprietor of this hotel?—A. Yes, I am.

Q. And that is your business?—A. Yes.

Q. And you keep your rooms there permanently?—A. Yes, sir.

Q. Are you married or single?—A. Single.

Mr. CALLAHAN. That is all.

FRANK J. GIBBONS, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name—A. Frank J. Gibbons.

Q. How old are you?—A. Forty-seven.

Q. Your business is that of a dog fancier?—A. Yes, sir.

Q. And you voted from 102 Staniford Street?—A. Yes, sir.

Q. That is where your dog kennel is?—A. No; 121 is the dog kennel.

Q. Have you lived at Albermahl Street?—A. Yes, sir; at times.

Q. Where do you live now?—A. For the last week I am stopping in New York.

Q. What do you call your home now?—A. I have no permanent home; any old place I hang my hat.

Q. You are a married man?—A. No, sir.

Q. Are you a widower; you were married?—A. I was.

Q. Are you a widower?—A. Yes, sir.

Q. Any children?—A. No, sir.

Q. Where were you living on last January?—A. Last January; this year, do you mean?

Q. 1919?—A. I think I was stopping at Albermahl Street.

Q. How long have you lived there?—A. Off and on for a year and a half. I use that place for business.

Q. No. 19 Albermahl Street is in the residential section of the city?—A. Yes.

Q. Up in the Back Bay section?—A. Yes, sir.

Q. How many rooms have you there?—A. Five.

Q. And, of course, you own all the furniture and fixings there?—A. Yes, sir.

Q. And they are still there?—A. Yes, sir.

Q. To tell the truth, you are living there?—A. No.

Q. When were you last in those apartments?—A. Yesterday.

Q. Slept there the night before that?—A. Yes.

Q. And the night before that?—A. No; I didn't. I stopped down on Cambridge Street. I was out of town and came in late.

Q. You pay the rent up there?—A. Yes.

Q. Who is your landlord?—A. Mr. Winslow, State Street.

Q. How long have you paid rent to him?—A. A year and a half.

Q. For that apartment?—A. Yes, sir.

Q. Who lives there with you?—A. I got a lady who takes care of my dogs.

Q. Who lives there with you?—A. Nobody lives with me; a lady takes care of the apartment and the dogs.

Q. At 102 Staniford Street, you haven't any furniture?—A. No, sir.

Q. You don't pay any rent?—A. Not at present.

Q. When did you ever pay any rent at 102 Staniford Street?—A. Off and on different times up until last May; along there some time.

Q. To whom?—A. Mr. Barr.

Q. What is his name and address?—A. Harry Barr, 102 Staniford Street.

Q. What room there did you occupy?—A. Up one flight, front.

Q. How long were you there?—A. About six weeks all told.

Q. Although you had your apartment at Albermahl Street and Albermahl Street isn't more than 2 miles from where you are in the city of Boston—in other words, your home that you were paying rent for was Albermahl Street and in it was all your furniture? It is in a convenient place, so far as your business is concerned, and yet you give us to understand that you claim you lived at 102 Staniford Street at that time; yes or no?

Mr. CALLAHAN. If he can answer it yes or no.

A. He is asking too much for me to answer.

Q. Mr. Gibbons, when did you go to live on Staniford Street?—A. Some time in March.

Q. What time in March?—A. I couldn't tell you.

Q. Give us the best of your recollection.—A. Say along somewhere in the middle of March. I can not give you the exact date.

Q. That is what you say, the middle of March?—A. Around there somewhere. Might have been the 15th or 20th or the 12th.

Q. Do you know any occasion for your having gone there at that time?—A. Yes, sir.

Q. What was it?—A. Sometimes I take a notion and I room in one place for a month or two and then I move and go somewhere else, and the reason is people get to know me. I have lots of pedigrees and I move them around.

Q. You took 102 Staniford Street for that reason?—A. Yes.

Q. And before that where were you?—A. 102 Staniford Street.

Q. And where before that?—A. 12 Causeway Street.

Q. That is near there?—A. I have been for 25 or 30 years around that corner.

Q. What you want to say, Mr. Gibbons, is this: Although living and having a permanent residence on Albermahl Street—A. I don't claim it as a residence.

Q. Although having your apartment on Albermahl Street, you wanted to get a voting residence in ward 5?—A. I have voted for 25 years there, and I claim the West End as my home.

Q. And for that reason you wanted to vote there?—A. I expect to move back there again. If ever I have money enough, I expect to go back to the West End to live.

Q. In order to keep up the sentiment of the past?—A. I like to vote there. It doesn't make any difference to me.

Q. Your place of business is right handy?—A. Yes; 121 Staniford Street.

Q. Where your kennel is?—A. Yes. Sometimes I pay three or four hundred dollars for a dog and they are too valuable to keep in kennels where they get sick on me.

Q. You don't keep them at Albermahl Street?—A. My high-priced dogs I do.

Q. Does the landlord know that?—A. Yes; I pay for the privilege. Sometimes I pay three or four hundred dollars for dogs.

Q. And you wouldn't dare to keep a dog like that down on Staniford Street?—A. No, sir; I wouldn't for any length of time.

Q. I think I asked you, but in order to clear it up, it is only a convenient walking distance from Albermahl Street to Staniford Street?—A. It costs me 16 cents a day to go up and down when I ain't got my auto.

Q. I didn't ask you that.—A. It is a little more than walking distance.

Q. But as a bird flies from Albermahl Street to Staniford Street, coming right down Huntington Avenue and across the Common and over the hill, it is not a distance of more than 2 miles?—A. It is a little more than I would want to walk when I am on my feet all day walking around. If you consider 2 miles walking distance, it is up to you.

Q. It is a distance of 2 miles?—A. A good 2 miles.

Q. In order to place Alabermahl Street?—A. It is the first street back of Massachusetts Avenue, off St. Botolph Street.

Q. And that is in another congressional district?—A. I don't even know that since they changed them.

Q. Don't you know that George H. Tinkham is the Congressman?—A. I am not interested in politics. I never received that much from politics and don't ever expect to.

Q. Don't you know Mr. Tinkham?—A. I have read about him.

Q. Don't you know that he is the Congressman from that district?—A. I don't know anything about him.

Q. Albermahl Street isn't ward 5?—A. I wouldn't swear to it, since they changed the ward lines; I don't know. Years ago I might have told you where ward 8 is.

By Mr. CALLAHAN:

Q. You expect nothing from politics and you get nothing from politics and you are not listed and registered down there for political reason?—A. Never received a favor in my life. A party who has not seen me for 15 or 20 years met me the other day and said, "Where are you hanging out now?" and I said in the West End. I am in the West End in Boston 18 out of 24 hours.

By Mr. O'CONNELL:

Q. You sleep mostly at Albermahl Street?—A. At times. I have been on Columbus Avenue and I have been all over the city, I guess.

PETER DUKELOW, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Peter Dukelow.

Q. You are registered as voting from 19 Causeway Street, Boston?—A. Yes.

Q. Did you vote there?—A. I did, sir.

Q. You are a carpenter by trade?—A. Yes, sir.

Q. How old are you?—A. 63.

Q. You know where Harding Street, Cambridge, is?—A. Yes, sir.

Q. You have lived there?—A. Yes; I lived there some 15 or 16 years ago—not since.

Q. You lived at 21 Prospect Street?—A. Yes, sir.

Q. How long have you lived there?—A. I left Prospect Street about the 4th of July, 1917.

Q. Down to the present time?—A. I lived in Causeway Street from that until last fall.

Q. Last fall you went to Causeway Street——

(Interruption by Mr. Callahan, claiming Mr. O'Connell is mistating the witness.)

Q. Now, Mr. Dukelow, who is your landlord at 121 Prospect Street?—A. Thomas McNally.

Q. Where does he live?—A. He lives there as much as I see.

(Interruption by Mr. Callahan.)

Q. Where does McNally live?—A. He lives at 19 Causeway Street.

Q. Is he the landlord at 21 Prospect Street?—A. No, sir.

Q. Who is?—A. Mrs. Donovan.

Q. How long have you lived at Prospect Street?—A. I went to live there at 19 Causeway Street in July, 1917, and I lived there until August, 1918.

Mr. CALLAHAN. That is what he said before and you misstated that evidence.

Q. You have been paying the rent at 19 Causeway Street for how long?—A. You mean this last time?

Q. I am asking you how long you paid it at 19 Causeway Street?—A. This last time I have been there not over four or five weeks.

Q. When did you go there this last time?—A. About four weeks ago.

Q. Where had you been before that?—A. Mrs. Donovan's.

Q. Where?—A. 21 Prospect Street.

Q. How long had you been there?—A. I had been there since about somewhere in August until about four weeks ago.

Q. And where had you been before that?—A. At McNally's.

Q. Did you have a rent receipt?—A. No, sir; I am only a lodger.

Q. When did you last live in Cambridge?—A. I haven't lived in Cambridge for 13 or 14 years.

Q. Do you know where your brother lives?—A. I have no brother.

Q. You have no office?—A. No office; no.

Cross-examination by Mr. CALLAHAN:

Q. What is your business?—A. Carpenter.

Q. And last April you were living at 19 Causeway Street?—A. Yes, sir.

Q. And what time did you leave Causeway Street, did you say?—A. About the last of August.

Q. Now, before you went to live at 19 Causeway Street, you lived at 21 Prospect Street, didn't you?—A. Yes, sir.

Q. And that is in the same district?—A. Yes.

Q. The same ward?—A. It is just around the corner.

Q. Are you married?—A. No, sir; my wife is dead.

Q. You have no family?—A. No, sir.

Q. You simply room out?—A. Yes.

Q. And you might one year be rooming at 19 Causeway Street?—A. I have lived between the two houses for over 13 years.

Q. I understand that between 19 Causeway Street and 21 Prospect Street, which is around the corner, you have lived in one of those two houses for 13 years, that is right?—A. Yes.

Q. You are a roomer and lodger?—A. Yes, sir; I boarded in whichever house I lived in.

Q. Mrs. Mahoney rents the house at 21 Prospect Street?—A. Mrs. Donovan.

Q. And whose house is at 19 Causeway Street?—A. Thomas McNally.

Mr. CALLAHAN. That is all.

LOUIS LOCKE sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Louis Locke.

Q. How old are you?—A. Sixty-five.

Q. You live in Belmont?—A. No, sir; I live at the New England House on Blackstone Street.

Q. Did you ever live in Belmont?—A. I did.

Q. When?—A. Up to about 12 years ago.

Q. And did you own a house in Belmont?—A. I did not.

Q. In what part of Belmont did you live?—A. I was born and brought up on Pleasant Street, lived there several years after my marriage, and then moved to Cottage Street and from there to Waverly Street.

Q. How much of your time do you pass in Belmont now?—A. None at all.

Q. You vote from the New England House?—A. Yes.

Q. You have lived there how long?—A. I have lived there practically 12 years. I have registered from there, I think, seven or eight years.

Q. What is your business?—A. Fruit and produce. Isaac Locke & Co., 101 Faneuil Hall Market.

Q. What is the number of your room at the New England House?—A. Room 95.

THOMAS McHUGH sworn :

Direct examination by Mr. O'CONNELL :

Q. What is your full name?—A. Thomas McHugh.

Q. Do you know Mrs. Carrelzon?—A. Yes.

Q. Landlord at 148 Warren Avenue?—A. Yes.

Q. You live there?—A. Yes.

Q. How long?—A. I have lived at that particular address off and on for three years. Went there first about three years ago, since that lady moved to that address.

Q. Did you vote from 44 Cooper Street, ward 5?—A. Yes, sir. At the present time at 148 Warren Avenue.

Q. How many years at 148 Warren Avenue?—A. I went there first about three years ago.

Q. Where is Cooper Street?—A. Corner of Endicott and Cooper Street.

Q. Is it a boarding house?—A. A rooming house.

Q. That is where you vote from?—A. Yes, sir.

Q. Anybody in that house that you are related to?—A. No, sir.

Q. What is your business?—A. Carpenter.

Q. When was the last time you were at 44 Cooper Street?—A. I left there about the 4th of May.

Q. When did you go there?—A. Around the middle of March.

Q. Pay your rent to Mrs. Carrelzon during that time?—A. No, sir.

Q. And if she said you paid to her she is mistaken?—A. My brother hires the room. I do not rent the room from her.

Q. You have arrangements with your brother?—A. Yes, sir.

Q. Your brother's name is what?—A. Patrick.

Q. And you room with him?—A. Yes, sir.

Q. Last year you left there some time in March and went out to 44 Cooper Street?—A. Yes, sir.

Q. And that was for the purpose of acquiring a voting residence?—A. No, sir; I am not interested at all in politics.

Q. How many years have you been doing this?—A. That is the first time I voted in ward 5.

Q. This last time?—A. Yes, sir.

Mr. O'CONNELL. That is all.

Cross-examination by Mr. CALLAHAN :

Q. Are you married or single?—A. A widower.

Q. What did you consider your home on the 1st of April of last year?—A. I considered my home at 44 Cooper Street.

Q. Anybody connected with politics ask you to get listed or register in that ward?—A. No, sir; I don't know anybody living in the ward.

By Mr. O'CONNELL :

Q. Where did you vote the year before that?—A. I voted from ward 13.

Q. And where did you vote the year before that?—A. Ward 13.

Q. How many years have you voted from ward 13?—A. Approximately, I think I voted four years there.

Q. How did you happen to go down to 44 Cooper Street?—A. Because it was nearer to my work.

Q. Where is your work?—A. In Charlestown.

Q. And you are back at Mrs. Carrelzon's now?—A. Yes. I didn't like the district after I had lived there for a while and decided to move back.

Q. 44 Cooper Street is some distance away from 148 Warren Avenue?—A. Yes; considerable distance.

Q. And you lived there last spring and went back?—A. Yes.

Q. How many times have you left Mrs. Carrelzon's house around the voting time or registering time?—A. No recollection of—

Q. You weren't living at Mrs. Carrelzon's year ago last April?—A. No, sir.

Q. Or the year before that?—A. The year before I was. I lived on Northampton Street.

By Mr. CALLAHAN:

Q. When you say you voted from ward 13, you didn't vote from this Warren Avenue address?—A. Mrs. Carrelzon was living then in ward 13.

Mr. CALLAHAN. That is all.

THOMAS McHUGH.

Mrs. ELLA WHITNEY, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Mrs. Ella Whitney.

Q. Where do you live?—A. In Dorchester, 57 Mora Street.

Q. Do you know James F. Bowes?—A. Yes.

Q. How long have you known him?—A. For the last five years.

Q. Does he live at your house?—A. Yes.

Q. He is connected with the sewer department of the city of Boston?—A. I believe so.

Q. And works at Squantum?—A. Mr. Bowes are referring to?

Q. Mr. Bowes?—A. He works for the sewer department.

Q. And he is down at Squantum?—A. No; he is in Boston.

Q. He is in the city hall?—A. Yes, sir. He never worked at Squantum.

Q. How long has he lived at your house?—A. Off and on during the last five years.

Q. And before that where did he live?—A. I couldn't tell you.

Q. By "off and on," what do you mean?—A. He spends his winters at our home.

Q. By that what do you mean?—A. I go to the beach every year and he leaves a day or so before I leave for the beach, and I leave for the beach the 1st of April every year.

Q. Where do you go?—A. To the North Shore, Ipswich.

Q. Where do you go?—A. Little Neck, Ipswich, Mass.

Q. Does your husband go with you?—A. We take the boat out——

Q. Where does he vote?—A. I couldn't tell you. I don't know.

Q. Were you in Ipswich last year the 1st of April?—A. Yes, sir; every year since I have been married.

Q. And how long is that?—A. Eight years.

Q. Where does Mr. Bowes go?—A. I don't know. He generally leaves a day or so before I do. He takes his trunk and goes away and I leave on the 1st day of April.

Q. And when does he come back?—A. He comes back in the fall.

Q. At what time?—A. About September or October.

Q. Tell me where you go to in Ipswich.—A. Little Neck, Ipswich, Mass.

Q. What part of Ipswich?—A. On the north shore.

Q. Have you a home there?—A. A summer home.

Q. On what street?—A. It is no street. It is a beach, a summer resort. There are no streets down there.

Q. Can you give me the name of anybody who saw you on April 1 at Little Neck in Ipswich?—A. I went down there with my brother-in-law and my husband and children.

Q. Give me the name of anybody outside of them—A. The people that live down at the beach. I don't know where they live, but Fred Byron, the owner of the hotel at Little Neck, Ipswich.

Q. Is that open during the year?—A. It is opened——

Q. Did you give you husband's name to the police?—A. No; I do not.

Q. Does your husband vote in Boston or Ipswich?—A. I don't know where he votes.

Q. Where is this Fred Byron?—A. He is the owner of the hotel and store down to this summer place where I go.

Q. Does he own the house you hire there?—A. No.

Q. Who is the landlord?—A. My mother-in-law owns the house.

Q. And it is such an unusual thing to leave for the north shore at that untimely season of the year——A. I told you that——

Q. Wait until I get through. I know that you might well tell me, but you might like to know what I am going to ask you. Before you answer any question the question must be asked. Will you please tell me the name of the expressman that moved your trunk the day before April 1 last year?—A. The Dorchester Express, I suppose you would call it. The Dorchester Auto Express.

Q. Who gave the order to have the trunks taken out?—A. I did.

- Q. Do you remove anything more than your trunks?—A. My clothing.
- Q. Your husband's clothing?—A. I took my husband's clothing.
- Q. And did you get any receipt?—A. I can not say; I don't remember.
- Q. Have you a telephone in your house?—A. No.
- Q. Do you have a telephone yourself?—A. No.
- Q. When was it taken out?—A. When I moved.
- Q. When was that?—A. Two years ago this month.
- Q. Has there been a telephone in there for Mr. Bowes?—A. No.
- Q. Is there a telephone in that house at all?—A. No.
- Q. What is your husband's full name?—A. Mr. George Whitney.
- Q. Any initial?—A. George L.
- Q. Where was he born?—A. In Boston.
- Q. How old is he?—A. 29 years.
- Q. What is his business?—A. I should call him a shipfitter at the Victory plant.
- Q. Before he went there to work what was his business?—A. In the cream business for Barden Cream Co., Dorchester.
- Q. Where was he working the 1st of last April?—A. Squantum.
- Q. Do you mean to say that your husband went from the Victory plant in Squantum down to Ipswich every day?—A. No.
- Q. What days?—A. Always week ends.
- Q. And by that you mean?—A. Friday night.
- Q. You went down and lived at Ipswich last summer, and where did your husband live?—A. I said I went down with my husband.
- Q. Was your husband working at the Victory plant then on April 1 of last year?—A. No. I said my husband went down to the beach with me.
- Q. Where was he working?—A. At the Victory plant.
- Q. On April 1 of last year your husband was working at the Victory plant; is that true? Let me ask you this: Where was your husband working on the 1st day of April last year?—A. He was with me down to the beach. Went down to take the boat out. We take our boat out every year at that time.
- Q. Did he work on April 1 of last year?—A. He did not.
- Q. Did he work on April 2?—A. No.
- Q. The 3d?—A. The 3d; yes.
- Q. Did he work on March 31?
- Mr. CALLAHAN. If you can remember.
- A. I can't remember.
- Q. Where was your husband working for the three or four days prior to the time when you went to Ipswich, if you can remember?—A. I don't remember.
- Q. When did your husband go to work at the Victory plant at any time prior to March 31 or after April 1?—A. What do you mean; when he started to work at the Victory plant?
- Q. Give us the nearest date.—A. He started a year ago this month.
- Q. In March of last year he went to work for the Victory plant?—A. Yes.
- Q. And that is a plant working then for the Government under high speed, as you know—
- (Interruption by Mr. Callahan.)
- Q. I want to know from you, Mrs. Whitney, if you know when your husband went to work in April?—A. I can not tell you the exact date.
- Q. The nearest you can remember.—A. I don't remember the exact date.
- Q. Did he work at all during the month of April last year?—A. Yes; he did work.
- Q. Much of the month?—A. I can not say. I don't remember.
- Q. Do you know what department your husband worked in?—A. The S. T.
- Q. Do you know the name of his boss?—A. No; I do not.
- Q. Do you know the name of any of his superior employees there?—A. No.
- Q. Do you know the name of the superintendent?—A. No.
- Q. Do you know who got him the position there?—A. No.
- Q. When did he cease working there?—A. He is working there still.
- Q. While you were living in Ipswich your husband was living where?—A. At 57 Mora Street.
- Q. In other words, you didn't close your house on the 1st of April, but you left it and went to Ipswich and your husband, who was working for the Victory plant, not very far away from Mora Street, continued to live there?—A. No.
- Q. How long did he stay there?—A. He was with me the week ends. Always came down of a Friday night and stayed until Tuesday morning, sometimes.

Q. Do you mean to say that any man working at the Victory plant, beginning in April, was taking week ends from Friday night until Tuesday morning? Do you mean to say that?—A. Yes.

Q. How often did he do that?—A. Very often.

Q. Give us the best of your recollection.—A. I know it is very often.

Q. How often would you say?—A. I can not say. I don't remember, but he always spent his week ends at Ipswich.

Q. You don't know how often that was done?—A. I would not say positively.

Q. And when he was not stopping with you at Ipswich he was stopping at 57 Mora Street?—A. Yes.

Q. That is your home?—A. Yes.

Q. When was your husband paid at the Victory plant?—A. Thursday.

Q. How many hours a day was he working there?—A. I don't know.

Q. What did he tell you?—A. He never told me his hours. He went very early in the morning and returned late at night.

Q. How do you know that if he was at Mora Street?—A. You are asking me how many hours he worked a day and I am telling you.

Q. Why do you say he worked late?—A. I am only telling you what I know about. I don't know what time he came home when I was at Ipswich.

Q. Has he ever told you what S. T. meant?—A. No.

Q. You still live at Mora Street?—A. Yes.

Q. When did Mr. Bowes come back to you? (No answer by witness.)

Q. What is the name of your mother-in-law?—A. Mrs. J. C. Whitney.

Q. And she is the one who owns this house?—A. Yes.

Q. Where does she live?—A. 8 Evans Street, Dorchester.

Witness suspended for the time being and asked to return again on Monday morning, March 3, 1919.

Objection by Mr. Callahan.

Witness ordered to return for further examination on Monday morning by Notary Berman.

THOMAS RILEY sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Thomas Riley.

Q. What is your address?—A. 21 Withington Street.

Q. What is your business?—A. Laborer.

Q. Are you married?—A. Yes, sir.

Q. Any children?—A. Yes, sir.

Q. Where does your children live?—A. One in the Back Bay and three in Dorchester.

Q. Whereabouts in Dorchester?—A. At St. Peter's Church.

Q. What street?—A. I can not tell you, sir; I don't know the name of it.

Q. Have you a boy named George Riley?—A. Yes.

Q. Goes to the Henry L. Pierce School?—A. Yes.

Q. That is close to Withington Street?—A. Yes, sir.

Q. And that is where you live?—A. Yes.

Q. Did you vote from 118 Bowdoin Street?—A. No, sir; from 28 Dedham Street.

Q. How long have you voted from there?—A. Last year.

Q. How long have you lived at Withington Street?—A. I lived there going on a year and a half.

Q. You own the house at Withington Street?—A. I have an interest in it.

Q. By that you mean you have the equity?—A. It is yours subject to the mortgage?—A. Yes, sir.

Q. When did you first move to 21 Withington Street?—A. I don't remember.

Q. It was about a year and half ago?—A. Yes, sir.

Q. 28 Dedham Street is a different part of the city?—A. Yes.

Q. And 28 Dedham Street is in the tenth congressional district?—A. Yes.

Q. And you lived, as a matter of fact, in the district represented by Mr. Gallivan?—A. Yes, sir.

Cross-examination by Mr. CALLAHAN:

Q. How old are you, Mr. Riley?—A. I am 58 years old.

Q. How long have you been a voter?—A. About 40 years.

Q. Where have you voted during all those 40 years?—A. In the south end.

Q. And in the same district you now vote in?—A. In the same district.

Q. Have you ever voted anywhere else?—A. No, sir.

Q. Has anybody connected with politics asked you to vote in that district?—A. No, sir.

Q. You did that of your own free will?—A. Yes.

Q. Did anybody connected with Mr. Lomasney or Fitzgerald ask you to get listed or register there?—A. No, sir.

Redirect examination by Mr. O'CONNELL:

Q. You are a city employee?—A. Yes.

Q. With the sanitary department?—A. Yes, sir.

Q. Whose house is this, Dedham Street, where you vote from?—A. Mr. Ryan.

Q. What initials?—A. Martin Ryan.

Q. Does he work for the city?—A. No, sir.

Q. All the furniture in your house is owned by you?—A. It belongs to myself and my wife and family.

Q. Do you own any furniture at Dedham Street?—A. Nothing; only my clothes.

By Mr. CALLAHAN:

Q. Did you live there the 1st of April last year?—A. Yes.

Q. And you work right at the foot of Dedham Street?—A. Yes, sir.

Q. And your work is about 50 or 60 yards from there?—A. A little more.

Q. About 100 yards?—A. Yes.

By Mr. O'CONNELL:

Q. What time in March did you go there?—A. I didn't say March; I said April.

Q. What time in April?—A. I couldn't tell you exactly.

Q. Where were you on the 1st day of April?—A. I don't know; I couldn't tell you.

Q. Your father is at Withington Street?—A. Outside of this time when I had to be registered from this house with the privilege of voting in ward 8. That is where I have voted all my life.

By Mr. CALLAHAN:

Q. Did anybody connected with Mr. Fitzgerald or Mr. Lomasney have anything to do with getting you a position in the city?—A. No, sir: I wouldn't know Mr. Lomasney if I met him there. I never spoke to the man and wouldn't know him.

THOMAS RILEY, JR., sworn.

Direct examination by Mr. O'CONNELL:

Q. Where do you live?—A. 21 Withington Street, Dorchester.

Q. That is ward 20?—A. Ward 21.

Q. Where do you vote from?—A. 21 Withington Street.

Mr. O'CONNELL. That is all.

JOHN J. GRAHAM, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. John J. Graham.

Q. You received a summons to come here?—A. Yes, sir.

Q. When did you receive it?—A. I think it was either Tuesday or Wednesday.

Q. And where did you receive it?—A. 153 Princeton Street, East Boston.

Q. Are you the John J. Graham who voted from 30 Causeway Street?—A. No, sir.

Q. Where do you vote?—A. In East Boston.

Q. What precinct?—A. Precinct 1, ward 2.

Q. How old are you, Mr. Graham?—A. 53 years.

Q. And your business?—A. Draw tender.

Q. For the city of Boston?—A. Yes.

Q. How tall are you?—A. 5 foot 6.

Q. And you weigh about how much?—A. 156; somewhere around there.

Q. How long have you voted from this place in East Boston?—A. About 17 or 18 years.

Q. You never registered or voted from 30 Causeway Street?—A. No, sir.

(John J. Graham's summons offered in evidence and marked "Exhibit 32.")

EDWARD O. DWYER, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Edward Dorsey O. Dwyer.

Q. Where were you living when summoned to come here?—A. Anchor House.

Q. When did you get the summons?—A. Last night.

Q. Where did you get it?—A. My cousin brought it to me.

Q. Where did she get it from?—A. Got it there.

Q. Did you learn where that summons came from?—A. My young cousin came to me at my place of business where I was working last night.

Q. Where was that?—A. Municipal Building, South Boston.

Q. You are a city employee?—A. Yes, sir.

Q. In what department?—A. Bath department.

Q. And what was the name of the party that gave you the summons?—A. Helen Wilson.

Q. And did she say where she got it?—A. At her home.

Q. And that is the place where you have been accustomed to living?—A. Once in a while.

Q. By that tell us what you mean.—A. I go there sometimes and I live there. I go there as a single fellow. I might go there and stay three months and leave her in three months and then go back again.

Q. How long has that been your custom?—A. Since my parents died.

Q. When was that?—A. My father died four years ago last Christmas.

Q. Where was he living?—A. 392 Commercial Street.

Q. And since then you have been living with this cousin?—A. Yes.

Q. And your cousin lives at 25 Brook Avenue, that is in Roxbury?—A. I believe so.

Q. Mrs. Ellen Wilson is your aunt?—A. Yes, sir.

Q. And she is the lady who lives at 25 Brook Avenue?—A. Yes, sir.

Q. And that is the house where you say you have lived off and on? Is this the story—that generally you lived there, but that some time in March your aunt stated as follows; see if this is true:

(Interruption by Mr. Callahan.)

Q. Your cousin testified in her testimony last Tuesday that Edward O. Dwyer, that is yourself?—A. Yes, sir, personally.

Q. She said that you were her nephew; that you lived with her until March, but that you then left the house and told her if anybody wants you not to tell them where you were, and that you did then stay away for some time, and that you then came back and lived with her until March again?—A. I never said it.

Q. Is that substantially true?—A. Give me that question a little lighter.

Q. Mrs. Ellen Wilson is your aunt?—A. Yes, sir.

Q. And that is the same 25 Brook Avenue you referred to as where you live?—A. Where I live occasionally.

Q. We will let it go at that, and she testified that you lived with her until some time in March; that you left her house in March and told her when you were going away that if anybody wants you to tell them that you were not there, and that you stayed away until June, when you came back again to live with her?—A. I told her I am going to leave her in March. I always do and I am leaving her this month. I am there since last Christmas.

Q. Isn't it true what she said?—A. That I told her—

Q. Is that testimony substantially true?—A. That I said to her if anybody comes inquiring for me that I am not there? I tell her I am not living there? I don't have to tell her to tell anybody I am not there. She knows I am not there.

Q. When you left there last March where did you go to?—A. To the North End.

Q. Where?—A. Bay State House.

Q. And what room did you have at the Bay State House?—A. I don't remember the number.

Q. What day did you go there?—A. I think around a little after the 17th of March. I was in South Boston and we stayed in the building and we had a little time to ourselves.

Q. Can you give us any nearer date?—A. Say the 20th then.

Q. Do you know the name of the clerk who registered you?—A. Yes; Mr. Day.

Q. What is his first name?—A. Charlie Day.

Q. Where does he live?—A. I don't know where he lives.

Q. And what street and number is the Bay State House?—A. 382 Hanover street.

Q. And that is the place you vote from?—A. Yes, sir.

Q. You took a room there?—A. Yes, sir.

Q. And you continued to work in South Boston?—A. Yes, sir.

Q. And stayed there until when?—A. I think around the last of June.

Q. And paid rent there all that time?—A. Yes.

Q. Just room rent?—A. Yes.

Q. Did you get any bills or receipts?—A. No, sir.

Q. Showing that you lived there?—A. No bills at all.

Q. What is your residence as it is registered in the Bath Department?—

A. My registration is in the Bath Department, when they took it last year was 25 Brook Avenue. I was living there at the time. They took it in July.

Q. Whenever the city wants to notify you at your home address it is 25 Brook Avenue, according to the records of the city of Boston, that is true, isn't it?—A. No, sir. They notify me from 33 Beacon Street to the place where I am working.

Q. When they have occasion to notify you at your home address, to get you is 25 Brook Avenue, isn't it? The fact remains that is your home address?

A. I have got no home, Mr. O'Connell.

Q. Will you please wait until I ask you? You got no home?—A. No.

Cross-examination by Mr. CALLAHAN:

Q. Are you married or single?—A. Single.

Q. And where was your home on the 1st of April last year?—A. Bay State House, 382 Hanover Street, Boston.

Q. Did you always live in that section of the city?—A. Yes; born and brought up in it.

Q. How old are you?—A. 35 this month.

Q. When you were 21 where did you vote?—A. Precinct 1, ward 6.

Q. Always voted there?—A. Yes; and my father before me.

Q. Your father died four years ago?—A. Four years ago last Christmas.

Q. And you lived with him at 392 Commercial Street?—A. Yes.

Q. You haven't any furniture and don't pay any rent on Brook Avenue?—A. No, sir.

Redirect examination by Mr. O'CONNELL:

Q. You wanted to keep voting down there and that is the reason you continued to vote there after your father died and your home was broken up?—A. No, sir; because I am there 24 hours a day you might as well say. All my leisurely time I am in the West End.

Q. But you lived at 25 Brook Avenue?—A. I don't live there. I might room there. I never go into that house the same day I leave.

Q. Are you a member of the Hendricks Club?—A. No, sir.

Q. Were you there on the Sunday prior to election?—A. No, sir.

Q. Mail addressed to you as Edward D. O. Dwyer, of 25 Brook Avenue, reaches you?—A. I don't receive any mail.

Q. It reaches you doesn't it?—A. No; it don't reach me.

Q. But the summons reached you?—A. The summons was addressed to two places.

Q. The summons addressed to you and left at 25 Brook Avenue reached you, didn't it?—A. I told you how that came.

Q. Well, it reached you, didn't it?—A. It reached me at my place of business, where I was working last Friday night.

By Notary BERMAN:

Q. You belong to a brotherhood or social organization?—A. No, sir.

Q. Not an organization?—A. Not at all. I belong to the bath department union and the longshoremens' union.

By Mr. O'CONNELL:

Q. What is your address in the bath department employee's union?—A. 392 Commercial Street when I joined. I am out of it now.

Q. Do you belong to any of them now?—A. No, sir.

Q. Without trying to be facetious, do you belong to any organization of any kind now?—A. No, sir.

Q. Don't you belong to the bath department employee's union now?—A. Not now, I am out of that three years.

Q. What is that insignia you have on you [referring to insignia on lapel of coat]?—A. A fellow gave me that.

Q. Who was he?—A. His name was Murphy.

Q. You are wearing his insignia?—A. He gave it to me to keep. It is only a sharpshooter's button. It is only a sporting club.

Q. It is a sharpshooter's button and you are wearing it and not entitled to?—A. He gave it to me as a keepsake.

Q. What is his name and address?—A. He is dead.

Q. What was his name and address?—A. I don't know. He was a long-shoreman and used to be on the water front there. I did a lot of favors for him.

Q. When did he die?—A. He got drowned about 10 years ago.

Q. Would you be good enough to let me look at that?—A. Yes [hands over button to Mr. O'Connell].

Q. What did he get that for?—A. I don't know, Mr. O'Connell.

Q. It bears the United States coat of arms, doesn't it?—A. Yes.

Q. And says "sharpshooter" on it?—A. Yes.

Q. And wasn't awarded to you?—A. No, sir.

Q. It is the property of a dead man?—A. Yes, sir.

Mr. O'CONNELL. I want to introduce this summons of Edward O. Dwyer showing the marshal's return by leaving it at his last and usual place of abode at 25 Brook Avenue, Roxbury.

Said summons marked "Exhibit 31."

Mr. O'CONNELL. That is all.

EDWARD D. O. DWYER.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman, to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

DORA H. BARNES.

BOSTON, MASS., May 5, 1919.

Personally appeared above Dora H. Barnes and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS.

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 58 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to remarked as described and made part of this record.

BOSTON, MASS., May 5, 1919.

ABRAHAM C. BERMAN,
Notary Public.

AFTERNOON SESSION AT OFFICE OF ELECTION COMMISSION.

Deposition of Chairman BURLIN—Continued.

Mr. Farnham acting for Mr. Burlin in opening the boxes and displaying the ballots.

Notary BERMAN. I understand that all of these contested ballots which have been marked, either at this hearing or some other hearing, for identification, are now included in the record in such form so that when you want them to send to Washington you will ask for these numbered ballots.

Mr. O'CONNELL. Yes.

Notary BERMAN. And you will offer them as exhibits?

Mr. O'CONNELL. Yes; that is what I have been doing. Of course, I have not said so to each one of them. That is what was understood.

A. Ward 2, precinct 1, the seal is intact. Canvas envelope, sealed. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, Exhibit 12.

Mr. O'CONNELL. Two crosses, one against Fitzgerald and one against Tague, so that the ballot should be counted for Tague, because the lower cross is heavier and undoubtedly intended for Tague.

A. Block 5, nothing; the seals on ward 2, precinct 2, are intact. (Broken by Farnham.) The seals on the canvas envelope are intact. Block 1——

Mr. O'CONNELL. We offer Exhibit 18, counted for Fitzgerald, a cross being opposite the name of Tague.

We offer Exhibit 19, the cross having been crossed out.

Mr. CALLAHAN. Note our objection to the remarks on these ballots.

Notary BERMAN. Yes; note Mr. Callahan's objections.

A. Block 2, nothing; block 3, nothing; block 4——

Mr. O'CONNELL. We offer Exhibit 72, because there was a cross against Tague's name and also a cross against Fitzgerald's name.

Mr. CALLAHAN. Note my objection to that, please.

A. Block 4—block 5, nothing. The seals on ward 2, precinct 3, are intact. The seals on the canvas envelope are intact. Block 1, nothing; block 2, nothing; block 3, one.

Mr. O'CONNELL. We offer Exhibit 84. The cross against Fitzgerald had been obliterated.

Mr. CALLAHAN. Note our objection to comment of counsel.

A. Block 4, nothing. Ward 2, precinct 4, the seals are intact. The seals on the canvas envelope are intact. Nothing in block 1, nothing in block 2, nothing in 3, nothing in 4. The seals on ward 2, precinct 5, are intact. The seals on the canvas envelope are intact. Block 1——

Mr. O'CONNELL. Exhibit 95, counted for Fitzgerald, with a cross on it below the line.

A. Block 2, nothing; block 3, nothing; block 4, nothing; block 5, nothing. The seals on ward 2, precinct 6, are intact. The seals on the canvas envelope are intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing. Ward 3, precinct 7, the seals on this are intact. The seals on the canvas envelope are intact. Nothing in block 1, one in block 2.

Mr. O'CONNELL. Exhibit 106, counted for Fitzgerald. The mark against Tague's name had been obliterated.

A. Blocks 3 and 4, nothing. Ward 2, precinct 8, the seals are intact. Nothing in block 1, block 2——

Mr. O'CONNELL. Exhibit 113, which was not counted, and a section of the cross being clearly in Tague's square.

A. Block 3, nothing; block 4, nothing; block 5, nothing. Ward 3, precinct 1, the seals on this are intact. The seals on the canvas envelope are intact.

A. Block 1, nothing; block 2, nothing; block 3, one.

Mr. O'CONNELL. Exhibit 23, cross placed in the blank below Tague's name, and that the only cross on the ballot that way.

Mr. CALLAHAN. That we object to, of course, as comment.

A. Block 4, nothing; block 5, nothing. Ward 3, precinct 2, the seals are intact. The seals are intact on the canvas envelope. Block 1——

Mr. O'CONNELL. Exhibit 79, counted for Fitzgerald, there being no cross in the square and simply being one line, and all the other designations in the ballot have crosses.

Mr. CALLAHAN. We object to that description or comment.

A. Block 2, nothing; blocks 3 and 4, nothing; block 5, nothing. Ward 3, precinct 3, the seals are intact and the seals on the canvas envelope are intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing. Ward 4, precinct 4, the seals are intact. The seal on the canvas envelope is intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing. Ward 3, precinct 5, the seals are intact. The seal on the canvas envelope is intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing. Ward 3, precinct 6, the seals are intact. The seal on the canvas envelope is intact. Block 1, nothing; block 2, nothing; block 3——

Mr. O'CONNELL. Exhibit 110, block 3, the cross looks as if it were put on Fitzgerald's square and obliterated or there was an attempt to obliterate it, all the other crosses being clear.

Mr. CALLAHAN. Note my objection to this comment and description.

A. Ward 3, precinct 7. The seals are intact. The seal on the canvas envelope is intact. Block 1——

Mr. O'CONNELL. Exhibit 122, the cross against Fitzgerald being very light and delicate and faint and of a different type entirely from the crosses against the other candidates on that ballot.

Mr. CALLAHAN. Note my objection, please.

Notary BERMAN. I think it is understood, Mr. Callahan, your objection is noted to all that line. Will the stenographers make a memorandum to the

effect that Mr. Callahan's objection is made to comment and description of the exhibits?

A. Block 2, nothing; block 3, nothing; block 4, nothing; block 5, nothing. Ward 4, precinct 1, the seals are intact. The seal on the canvas envelope is intact. Block 1, nothing; block 2——

Mr. O'CONNELL. Exhibit 6; block 2, ward 4, precinct 1, not counted for Tague or Fitzgerald, there being an additional cross against the name of Fitzgerald which we will contend was of a different marking.

A. Block 3, nothing; block 4, nothing; block 5, nothing. Ward 4, precinct 2, the seals are intact. The canvas envelope seal is intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing; block 5, nothing; block 6, nothing. Ward 4, precinct 3, the seals are intact. The canvas envelope seal is intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, one.

Mr. O'CONNELL. Exhibit 21, the intersection of the cross being below the line and against the name of Mr. Tague.

Mr. CALLAHAN. This is Exhibit 15, precinct 3, block 4. It is counted for Tague, and I will make no comments or descriptions.

Mr. O'CONNELL. You could not.

Mr. CALLAHAN. It has gone in, and you are not going to say it is stolen.

A. Block 5, nothing. Ward 4, precinct 4, the seals are intact. The canvas envelope seal is intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing; block 5, nothing; block 6, nothing; block 7, nothing. Ward 4, precinct 5, seals are intact. The canvas envelope seal is intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing; block 5, nothing; block 6, nothing. Ward 4, precinct 6, the seals are intact. The seal on the canvas envelope is intact. Block 1, nothing; block 2, nothing; block 3, nothing; block 4, nothing; block 5, nothing.

Mr. O'CONNELL. Exhibit 80, block 6, was not counted, although the intersection of the cross was below the line and against the name of Mr. Tague.

A. Ward 4, precinct 7, the seals are intact. The canvas envelope seal is intact. Block 1, nothing; block 2——

Mr. O'CONNELL. Exhibit 89, block 2, cross intersected on the line, or rather just below the line and against the name of Tague.

A. Block 3, nothing.

Mr. CALLAHAN. Exhibit 88, counted for Peter F. Tague, ward 4, precinct 7, block 3.

A. Nothing in 4 and nothing in 5.

Mr. O'CONNELL. Exhibit 93, block 5, the cross started at Mr. Tague's name, was finished in the blank underneath, and evidently intended for Mr. Tague.

Mr. CALLAHAN. Ward 4, precinct 7, block 6, Exhibit 92, counsel for Tague.

Mr. O'CONNELL. Have you the record book of ward 5, precinct 8, of the primary of September 24, 1918?

Mr. BURLIN. Yes.

Q. Will you read what it says on the last page with reference to Joseph F. Walsh?

Mr. CALLAHAN. I object.

A. Joseph F. Walsh, 13 Cambridge Street, was calculated by John T. Gibbons, 107 Green Street.

Mr. O'CONNELL. Now, Mr. Callahan, do you want to agree on this, that it has been shown—you had better open precinct 5, ward 8, and get that ballot and have it marked.

Mr. CALLAHAN. You can find it here. This is the thing I call attention to, that you are asking the commissioners to commit a crime. Mr. O'Connell is going to suggest something, and it probably will be a bright idea.

Mr. O'CONNELL. I insist they open up precinct 8, ward 5.

A. These have not been out here.

Q. Isn't it here?—A. No; that is in the vault.

Q. Then have it opened up.—A. Can't you leave it until later?

Q. Well, we will have it produced later. Now, Mr. Burlin, will you——

Mr. CALLAHAN. Now, isn't this true, that if there were any votes challenged that day, those challenged votes are in these boxes.

Mr. O'CONNELL. That is what he has read.

Mr. CALLAHAN. That is all you want.

Mr. O'CONNELL. We want the ballot showing the vote for Mr. Walsh.

Mr. CALLAHAN. You have no right to show it before witnesses.

Mr. O'CONNELL. We have a right to show it before the congressional committee.

Mr. CALLAHAN. This is not the congressional committee. This is a committee by power of statute.

Mr. O'CONNELL. I want that ballot, to show how it is marked.

Mr. CALLAHAN. If Mr. Burlen wants to commit a crime——

Mr. O'CONNELL. I am offering it for Congress; no other reason.

Mr. CALLAHAN. Isn't it true you said you wanted to show how he voted?

Mr. O'CONNELL. I offer that ballot for the inspection of Congress.

Mr. CALLAHAN. Isn't it true you said you wanted it to show how he voted?

Mr. O'CONNELL. That is true.

Mr. CALLAHAN. Do you mean to say that is going to be a part of this record?

Mr. O'CONNELL. Absolutely a part of this record.

Mr. CALLAHAN. I want to warn the commissioners that the instant they produce that ballot we will swear out warrants against them.

Notary BERMAN. I understand Mr. O'Connell simply wanted the exhibit marked as challenged by John Jones or John Smith, so that the vote can be identified and brought before the congressional committee at Washington.

Mr. CALLAHAN. Mr. Notary, you know a number of things, and the secrecy and integrity of the ballot is a thing that has to be maintained more than anything else, and for that reason the legislature has made it a penal offense for anybody to disclose any information in regard to a challenged ballot.

Notary BERMAN. You misunderstand my statement.

Mr. CALLAHAN. I do not misunderstand your statement.

Notary BERMAN. We will mark it for identification.

Mr. O'CONNELL. Let us get them out of our way, anyway. Pending that, Mr. Burlen, I ask you to produce the record of the primary of September 24, 1918, in ward 5, precinct 4, and I ask you to read for us that part of the record beginning at the bottom of the page, after—or begin at that part of the page which states what took place after the officers were sworn in.

A. Ward 5, precinct 4. The 24th day of September, 1918. The polls were opened at 6 a. m. and closed 4 p. m. Key to ballot box was found 8.15. The whole number of ballots having gone in being sorted and counted in the manner provided by law. The count was——

Mr. O'CONNELL. I call your attention to the difference in ink, 4 p. m., and the difference in the rest of it.

Mr. CALLAHAN. I submit that has got to be put in as an exhibit.

Mr. O'CONNELL. Now, will you turn to the number of votes cast? The next three pages has nothing to do with what we have in mind. Will you read it?

A. At the opening of the polls and before any ballots were cast the ballot box registered 000 and at the close of the polls registered indicating . Officers in charge of the voting list counted the men's whole number of names checked on said list to be . Male voters, . Female voters, none. Ballot officers then removed the ballots from the box and cast them to be counted one by one and announced the whole number of ballots cast to be—men's ballots, ; women's ballots, none; whole number cast and counted to be as recorded and tabulated, . Ballot box skipped 10.

Q. That was evident the ballot box had skipped 10. I now introduced that record and ask to have it marked as an exhibit. Exhibit —, primary record, ward 5, precinct 4, September 24, 1918.—A. I don't want this marked.

Notary BERMAN. It is offered as an exhibit, and the understanding is it is in as an exhibit and to be here if called for?

A. Yes.

Q. I ask you to produce the record of ward 5, precinct 5, of the primary of September 24, 1918, and ask you to read what the clerk records with reference to the ballot box.—A. The State ballot box registered before the polls were opened 000. This is ward 5, precinct 5, record of the primaries of September 24. At the close of the polls it was 217. Number of names checked on the voting list and used on the ballot box was , and number of ballots used in ballot box was 236. I guess you will agree on that.

Q. 236 blurred and 236 written out.—A. 236 blurred and 236 written out. The result of the vote was publicly announced to be . Hyman Devine, clerk.

Mr. O'CONNELL. I ask to have it marked.

Notary BERMAN. The same is true of this one.

Q. Have you the record of the primary of September 24, ward 6, precinct 5?—

A. Yes.

Q. Will you produce it, please?—A. Do you mean the election or the recount?

Q. I want them of the primary.

Mr. CALLAHAN. That is, you want the primary and recount?

Mr. HARRINGTON. I asked to have certified copies, and they said they would furnish them for me.

Mr. O'CONNELL. When are they going to have them? Will you find out from Mr. Mahoney when they can have them?

Chairman BURLIN. I can tell you. When do you want them?

Mr. O'CONNELL. We want them now.

Chairman BURLIN. It is pretty hard.

Mr. O'CONNELL. We want certified copies of the votes cast at the primary on September 24, both the original and the recount results, in the whole congressional district, being wards 1, 2, 3, 4, 5, and 6. We also want a certified copy of the votes cast on election day in that whole congressional district—wards 1, 2, 3, 4, 5, and 6—showing the result of the counting, precinct by precinct, and certificate used in connection with that challenged vote of Joseph T. Walsh.

Q. Now, then, we want to get this election of ward 5, precincts 6, 4, and 8, election—

Mr. CALLAHAN. Now, before you go ahead with that, Mr. O'Connell, I want to call your attention once more to the statute and to say that you or these commissioners or their employees have no right to look on the faces of those ballots that are challenged. If you do, you will make it incumbent upon us to go and secure warrants for you and the commissioners.

Mr. O'CONNELL. You go and get all the warrants you want on me. Any man in this town who can secure a warrant on me is welcome to do it. I am here for Mr. Tague, and I am going to get this vote before the congressional committee.

Mr. CALLAHAN. I know what you have done, but not what you are going to do.

Mr. O'CONNELL. We don't want to look at the ballot.

Notary BERMAN. I think, Mr. O'Connell has made his position clear on these ballots.

Mr. CALLAHAN. All I say is that they should not be brought out before this commission.

Mr. O'CONNELL. You have said that at least five times, and I understood the first time as well as now.

Mr. CALLAHAN. I say you have no right to look at the face of these ballots.

Notary BERMAN. I have ruled these ballots may be segregated and marked for identification purposes, to be produced before the congressional committee in Congress.

Mr. CALLAHAN. I don't object to that.

Mr. NOTARY. Why don't you wait before you holler fire?

Mr. CALLAHAN. I have been waiting all day. I know what Mr. O'Connell means, and I know what he will do if he is given a chance, and I simply want to call it to your attention and the congressional committee later. I want restriction put on him, and then I want to see if he is going beyond that restriction.

Chairman BURLIN. Ward 5, precinct 4, the seals intact. This is the election.

Q. There are two challenged votes, but there were many others that were challenged.—A. Look at the back of the ballot. Look them all over quickly.

Mr. O'CONNELL. And at the same time I want marked for identification the ballots in which assistance was given.

Mr. CALLAHAN. I shall object to that, and I want my objection noted.

Notary BERMAN. You may note Mr. Callahan's objection, and Mr. O'Connell may have the ballots produced if he desires them.

Mr. CALLAHAN. Do I understand now that you are going to call attention to some special ballots here that you know are challenged?

Mr. O'CONNELL. Challenged or marked for identification or assisted by the warden.

Mr. CALLAHAN. Do you mean you are asking for all ballots that are challenged?

Mr. O'CONNELL. Yes, sir.

Mr. CALLAHAN. Will you please note my objection to all these ballots that have been challenged?

Notary BERMAN. Note Mr. Callahan's objection.

Mr. CALLAHAN. Do you say, Mr. O'Connell—I don't want to poke fun at you, but if you recall being here at the recount of the election, you know perfectly well all these challenged ballots are in these exhibits you took out the other day. These 1,300 exhibits included all the challenged votes of ward 5 on elec-

tion day. These things are exhibits, and I don't see that you are going to add anything by going over it again.

Chairman BURLIN. Not every box; six or eight.

Q. What have you got there, Mr. Burlen?—A. That is a ballot of ward 5, precinct 4, indorsed at the top, "Charles K. DiFatta, People's Palace, Brookline Street, Boston," and then "Michael Backer, 24 Allen Street, Boston."

Notary BERMAN. It is marked.

Mr. O'CONNELL. Please have it marked for identification as a challenged vote.

Mr. CALLAHAN. It is marked. It is an exhibit.

Mr. O'CONNELL. Now, look at him, violating the law.

Mr. HARRINGTON. What are you doing? Your statement was that looking at the face of the ballot was against the law and you were going to have everybody arrested. Now, you are the first one arrested. Now, you are the first one.

Chairman BURLIN. Ward 5, precinct 4, Exhibit 54, according to the tag that is on the outside.

Mr. O'CONNELL. Is this the one? Ward 5, precinct 4, block——

Chairman BURLIN. Ward 5, precinct 4, block 3.

Mr. O'CONNELL. What is the name?

Mr. CALLAHAN. I object.

Notary BERMAN. Note Mr. Callahan's objection. It may be admitted.

A. John Hurley, 8 Pine Street, by Michael Backer, 24 Allen Street, Boston.

Mr. O'CONNELL. These votes are challenged, and are introduced as exhibits because the voter had no right to vote in that ward for Congress.

Mr. CALLAHAN. Please note my objection at the end, that is comment, without any evidence or supplementary evidence, as my brother says.

Mr. O'CONNELL. That should not have been counted for Mr. John F. Fitzgerald.

Mr. CALLAHAN. I object to that comment. We wish to have some real evidence.

A. Ward 5, precinct 6. The seals are intact.

Mr. O'CONNELL. I will now introduce this ballot and have it marked as an exhibit, and I ask to have it marked. Will you mark it, Br. Burlin, so it will have your stamp on it or the board's stamp on it, or whoever does this thing? I am introducing this on the claim that the vote for John F. Fitzgerald should not be counted, Mr. Mancovitz not being duly registered.

Mr. CALLAHAN. I object to that because there is no evidence before this commission that man voted for John F. Fitzgerald.

Mr. O'CONNELL. Do you want us to show it?

Mr. CALLAHAN. How can you show it?

Mr. O'CONNELL. Do you want us to show how he voted?

Mr. CALLAHAN. I suppose you will tell Congress what to do.

Mr. O'CONNELL. I will advise them, if necessary if they ask my advice. I will certainly tell them John F. Fitzgerald was not elected.

Mr. CALLAHAN. I guess you will, and then you will walk home.

Exhibit A1. Ballot of Israel Mancovitz which was challenged by Michael Backer across the front of it, on the ground Mr. Mancovitz had no right to vote.

Mr. CALLAHAN. If you can't make a better argument than that you won't waste any time.

A. Ward 5, precinct 8, the seals are intact. These are the challenged ballots all in ward 5, precinct 8. Why isn't this number identification enough without reading these names?

Mr. O'CONNELL. No; we have got to read the names.

Chairman BURLIN. This identifies that ballot.

Mr. O'CONNELL. It does not for the purpose we are putting them in.

No. 1208 is also in question because it was voted by Peter Duculo, who was challenged by Michael Backer.

No. 1209, Henry F. Marks, 19 Causway Street, challenged by John T. Gibbons.

No. 1168 Henry F. Moran, also introduced to have it not counted for John F. Fitzgerald. This ballot was challenged by John T. Gibbons on the ground of illegal registration.

No. 1180, being the vote of Martin Manning, 19 Causeway Street, who was challenged by John T. Gibbons.

No. 1216, Charles T. Maynard, challenged by John T. Gibbons on the ground of illegal registration.

No. 1213, John McGowan, challenged by John T. Gibbons, on the ground of illegal registration.

No. 1212, being the vote of Edmund A. Plummer, 13 Cambridge Street, challenged by John T. Gibbons on the ground of illegal registration.

No. 1211, Frank J. Dowd, 13 Cambridge Street, challenged by John T. Gibbons, on the ground of illegal registration.

No. 1214, David J. Dyer, 19 Causeway Street, challenged by John T. Gibbons on the ground of illegal registration.

No. 1210, being the vote of Charles H. Meadows, 39 Cambridge Street, challenged by John T. Gibbons on the ground of illegal registration.

No. 1217, being the vote of Richard Porter, 19 Causeway Street, challenged by John T. Gibbons on the ground of illegal registration. This ballot was marked with the assistance of Dominick Barbera.

No. 1203, ballot assisted by Dominick Barbera.

No. 1202, assisted by Dominick Barbera.

No. 1219, the ballot was marked by my assistance, John W. Manning.

No. 1206. This ballot was marked with the assistance of Warden John W. Manning.

No. 1201. This ballot was marked with my assistance, John W. Manning.

No. 1207. This ballot was marked with my assistance, John W. Manning.

Chairman BURLIN. Does the name of the person voting appear?

Mr. O'CONNELL. No.

No. 1204. Assisted by Dominick Barbera.

No. 1218. Marked "This ballot was marked with my assistance, Warden John W. Manning."

No. 1220. Marked "This ballot was marked with my assistance, John W. Manning."

No. 1205, which is marked "This ballot was marked with my assistance, John W. Manning."

No. 1215, which is marked "This ballot was marked with my assistance, John W. Manning."

No. 1221. Marked "Assisted by Dominick Barbera."

Mr. O'CONNELL. All these ballots being in precinct 8 of ward 5 and are all—with the name being omitted—and all introduced as showing conspiracy existing in ward 5, precinct 8, on that date, reference being made particularly to the testimony of Mr. Gibbons.

Q. Now, Mr. Burlin, I call your attention at this time to the records of ward 5, precinct 8, on that and ask you if there is any record of men being assisted?—A. That is the election November, 1918?

Q. Yes.—A. I don't find any record.

Q. There is no record, then, made of it, and there is no way of telling, as the ballots stand, who these men voted for?

Mr. CALLAHAN. Of course, the law would prevent that. You have got to protect the secrecy of the ballot.

Mr. O'CONNELL. I am introducing these ballots and ask that they be not counted for John F. Fitzgerald.

Mr. CALLAHAN. I object to that, because there is no evidence here they were counted for John F. Fitzgerald.

Mr. O'CONNELL. On the ground that the voter's name should be designated in accordance with the law of Massachusetts, I now introduce into the record the acts of 1914, chapter 435, amended by section of the acts of 1916. In section 294 of the acts of 1913, amended in 1916, it reads as follows:

"SEC. 294. A voter who declares on oath to the presiding officer that he had the right to vote on the 1st day of May, 1857, and can not read, or that from blindness or other physical disability he is unable to prepare his ballot or to register his vote upon a voting machine, shall be assisted in such marking or registration by any qualified voter whom the aforesaid voter shall designate.

"Second. This act shall take effect upon its passage, 1916, and being chapter 807 of the acts of 1916."

And I call particular attention to the fact that none of the ballots which have been introduced have complied with that section, no oath having been taken by the voter and the records not having any statement to that effect.

Now, section 281. In reference to the reading of the clerk's record of precinct 4, ward 5, primary day, which was read by Mr. Burlin a short time ago, I would introduce chapter 835 of the acts of 1913, section 281, which reads in part as follows:

"If it becomes impossible to use the State ballot box the voting shall proceed in such manner as the presiding officer shall direct and in such case the

clerk shall record the reason why such ballot box was not used and shall inclose an attested copy of such record in the envelope with the ballots cast. The provisions as to the use and custody of the State ballot box shall, so far as applicable, apply to the ballot box substituted therefor." Therefore I call attention to the fact that the clerk's record does not comply with the law if it was so used.

Now, then, at this time I would like to introduce the testimony of the election board as to the fact that certain men voted on primary day, September 24, 1918, and at the election on November 5. Now, then, I understand that it is suggested by everybody that the easiest way out of this will be to have the election board take the list of names of which we spoke and check them off, giving us a certified copy which we will introduce into the record as evidence of the board and as an exhibit, showing that certain men voted who we maintain had no right to vote.

Mr. CALLAHAN. Of course, you understand I don't agree to that.

Mr. HARRINGTON. And also the record of J. Hyde White, which is in the record. That being so, I would ask the board—we will offer the board at this time the names and would ask——

Notary BERMAN. I think, Mr. Burlen, you might discharge your office force.

Chairman BURLLEN. I want to go downstairs and open up the vault, and they are both locked. Why wouldn't this be a good suggestion: Why not send over and have it come over, what you desire here?

Mr. O'CONNELL. I am giving it to you now. I have the list right here.

Chairman BURLLEN. The original list showing J. Hyde White of those voters, according to that list, that voted at the primary on September 24, and election day, November 5.

Mr. HARRINGTON. We want a certified copy of the check list containing the names of these voters. We request the name which is on them and whatever qualification authorizing the check list.

Chairman BURLLEN. How many are there?

Mr. HARRINGTON. I should say about 250 or 300.

Chairman BURLLEN. And you have got all through, except that? When you get that, Mr. O'Connell, are you through with the services of this board?

Mr. O'CONNELL. Wait a minute. I don't know whether I am or not. Joseph Walsh was challenged.

Notary BERMAN. Why can't you assume it is in evidence? Why can't you offer that ballot in evidence at this time to be produced at a later date?

Mr. O'CONNELL. We offer, then, at this time the challenged vote of Joseph T. Walsh, in ward 5, precinct 8, 13 Cambridge Street, vote challenged by John T. Gibbons, acting record clerk.

Mr. CALLAHAN. Over my objection.

Notary BERMAN. Over the same objection you have been offering throughout the hearing to-day. That may be noted.

Mr. O'CONNELL. When can we have these, Mr. Burlen?

Chairman BURLLEN. When do you want them?

Mr. O'CONNELL. I would like to have them to-morrow.

Chairman BURLLEN. The day after to-morrow.

Mr. O'CONNELL. All right. Let us have them at your earliest convenience, and when you do let us have them, some member of your board would better appear with them.

Chairman BURLLEN. We shall make a certification.

Mr. O'CONNELL. I don't want a certification. I want one of the members of the board to state the lists have been gone over and you found them correct. That will save checking over.

Chairman BURLLEN. We will make the certification also.

Notary BURLLEN. There being no further business here, the hearing is adjourned to the Federal building, room to be assigned to us, to-morrow morning at 10 o'clock.

MARCH 5, 2.30 P. M.

Mr. BURLLEN, recalled by Mr. O'CONNELL.

Q. What is your name?—A. Melancthon W. Burlen.

Q. And you are chairman of the election commission?—A. I am.

Q. You are called to the stand to furnish a list of those men who voted at the primary election in the tenth congressional district?—A. A list as made by Mr. Harrington, some of which are marked as not being on the voting list.

Mr. O'CONNELL. Now, then, I offer this list.

Notary BERMAN. That list may be identified and marked.

Mr. O'CONNELL. This list of names has this appended to it: "Boston, March 5, 1919. We certify that the foregoing names appear on the voting list of the city of Boston as registered in the tenth congressional district. In each case where our records show a name was checked as having been voted either at the State primary or State election, a star (*) appears against that name either in the State primary or State election, as given. Attest, board of commissioners, Melancthon W. Burlen, chairman."

Exhibit 39. List of voters at State primary and State election.

Exhibit 40. Certified copy of the votes cast in State election, together with copy of record of the recount.

Exhibit 41. Certified copy of the votes cast in State primary, together with copy of record of the recount.

Q. You have also brought down a certified copy of the returns of the primary and also of the election in the tenth congressional district?—A. I have.

Q. With a certificate that the appended sheets are a true copy of the number of votes cast for Congressman in the tenth Massachusetts congressional district at the State election, November 5, 1918, together with a true copy of the record of the recount?

Mr. CALLAHAN. Which is it?

Mr. O'CONNELL. That is the one. Seven sheets attached to it. I offer that as an exhibit and ask to have it marked.

Mr. O'CONNELL. "March 5, 1919. We certify that the appended sheets contain a true copy of the record of the number of votes cast for Congressman in the tenth congressional district in the State election held November 5, 1918, together with a true copy of the record of the recount of the votes cast at said election. Attest, board of election commissioners, Melancthon W. Burlen, chairman."

Q. These are the official returns of what took place at both the primary and election last fall at which Peter F. Tague and John F. Fitzgerald were candidates for election?—A. They are.

Q. This is a list of all who voted at the primary; describe how that list was made up.—A. We took the original lists, with three clerks in our office, and had the names read to the stenographer and the information conveyed to him by these three clerks, and after that list was made up three other clerks went through the list to see if it was correct.

Q. You are obliged by law to keep the names of those who vote at our primary and election?—A. Yes, sir.

Q. And this list is made up from the original?—A. From the original list.

Q. Now, Mr. Harrington gave you this list—gave you these memorandums?—A. He did.

Mr. O'CONNELL. Now, Mr. Burlen, we want to put the original into the record—the check lists used at the primary and State election. What is the most convenient way of having that done?

Mr. CALLAHAN. There is only one way; the statute requires this, doesn't it, Mr. Burlen?

(Mr. Burlen makes a statement, not for the record.)

Q. We want to have the original lists marked so that they can be impounded at the proper time to be sent to Washington, if the congressional committee decides they want them. We will go up there to-morrow?—A. Sure.

Q. Because there will be a few other things that have got to be done that might as well be done in that office. What about 11 o'clock to-morrow?—A. I will be there if you wish it.

(Discussion as to time.)

Q. Suppose we make it 12 o'clock to-morrow?

(Mr. Burlen was here excused until 12 o'clock, Mar. 6.)

MARCH 6, 1919, AT 12 M.

Notary BERMAN. Mr. Brogna, junior counsel for Mr. Fitzgerald, is here, and we will proceed.

Redirect examination by Mr. O'CONNELL—Continued:

Q. Mr. Burlen, requesting you to resume your testimony of yesterday afternoon, which was interrupted in order to get these records, have you the letter sent you by corporation counsel of the city of Boston, Mr. Whiteside, with relation to whether Mr. Tague should be permitted to see the unused ballots of the primary on September 24 which had been withheld from him by the election board, concerning which a complaint was made to the mayor, and in

consequence of which this board was notified by the corporation counsel to show them to him?—A. I have a letter.

Q. Will you read that letter, please?—A. This letter was dated October 2, 1918, and the board makes this notation on the top of the letter: "This information was asked for verbally. No request in writing was made."

CITY OF BOSTON, LAW DEPARTMENT.

BOARD OF ELECTION COMMISSIONERS,

City Hall, Boston.

GENTLEMEN: I understand that you desire my opinion on the following points: (1) Can the voting list as provided for by statute of 1913, chapter 835, part 1, section 85, be opened, examined, and inspected by the board? (2) Are clerks' records and official returns open to public inspection? (3) On a recount, has the board the right to open and examine ballots not cast? I should answer these questions as follows:

"I should answer question 1 in the affirmative. The voting lists might contain matter pertaining to the votes cast and material on the question of the recount; therefore I believe the board has the power to examine these lists. If it is to do so, I think in order to satisfy all parties that the recount is conducted with absolute fairness there is no objection to allowing the contesting parties to make such reasonable inspection as they may wish of these voting lists while the board itself or its agent is examining them.

"2. I should answer this question in the affirmative.

"3. I am of the opinion that the ballots not cast, contained in sealed packages and certified as uncast ballots by the officers in charge of the polls, can be examined by the election commissioners at their pleasure so long as they legally have them in their possession. If, as I understand here, one party to a contest has raised the question that ballots which should have been cast were through inadvertence or fraud placed among the uncast ballots, I believe the election commissioners have the power to open and examine uncast ballots to ascertain if this charge is true. If they are to do this, it would seem to me expedient that they should do it in the presence of both parties to the contest or their representatives so that the result of their examination would be known to both parties.

"Yours, very truly,

"ALEXANDER WHITESIDE,
"Corporation Counsel."

Mr. O'CONNELL. I now introduce that as an exhibit and ask to have it marked.

Exhibit 47. Letter of corporation counsel, Alexander Whiteside, Esq., to board of election commissioners, October 2, 1918.

Mr. O'CONNELL. Now, Mr. Callahan, are you willing to permit the election commissioners to strike off a copy of that and certify to it as being authentic?

Mr. BROGNA. It is in the record all right. What do you want it for?

Mr. O'CONNELL. It is already read into the case. All right.

Q. Now, have you the official call for the primary that was held September 24, 1918?—A. We are having it made for you. It is being copied from the press copy.

Mr. O'CONNELL. I introduce at this time certified copy of the call of the primary September 24.

Q. Have you the precinct book and copies of the recount record?—A. We have those here.

Q. Have you the petitions originally submitted by Mr. Tague for the recount of the primary? [Taking paper.] I offer that as an exhibit.

Mr. BROGNA. These, as I understand, are official papers belonging to the election board, not to be taken out.

Notary BERMAN. The same rule—you don't mean certified copies of these?

Mr. O'CONNELL. No.

Notary BERMAN. The same rule with reference to impounding the notices.

Mr. O'CONNELL. Mark them as an exhibit.

Mr. BROGNA. Of course, we don't object to any certified copies.

Mr. O'CONNELL. Why not put these in as originals? Mark each one as an exhibit?

Chairman BURLIN. You can mark them as exhibits, if you want to. Which is it now, Mr. O'Connell?

Mr. O'CONNELL. The primary.

Mr. BURLIN. There is the primary. You can mark that.

Exhibit 48. Petitions for recount of the primary in wards 1, 2, 3, 4, 5, and 6.

Mr. BURLIN. You want the recount of the election with them?

Mr. O'CONNELL. Yes; let them go in now.

Exhibit 49. Petitions for recount of the election in wards 1, 2, 3, 4, 5, and 6.

Q. Have you the clerk's report of the primary of ward 5, precinct 8?—A. Yes.

Q. Will you read the last page of that first report of the primary?

Mr. BROGNA. Now, just a moment, before this is in. If there is an exhibit going in, it ought to go in.

Mr. O'CONNELL. It has all gone in except the last page. That was omitted the other day.

Mr. BROGNA. Is that so, Mr. Chairman?

Mr. BURLIN. I have read this report through before, the whole of it, some time ago.

Mr. O'CONNELL. You did not read the last page. We stopped when you got down to Walsh's name, and then there was some confusion.

A. "Assisted Arthur W. Pierce, 19 Causeway Street, eyesight bad; eye bad; warden. Daniel J. Crowley, 19 Causeway Street; bad eye; by warden. George M. Cornley, 16½ Margin Street; assisted by warden. John A. Houghton, 19 Causeway Street; bay eye; by warden. James J. Lavin.

Q. Now, that is part of the clerk's report of official action taken that day?—

A. That is a part of the clerk's returns at the primary held Tuesday, September 24.

Q. Signed by him?—A. Signed, Morris Silverstein, clerk.

Mr. O'CONNELL. I introduce that as an exhibit and ask to have it marked.

Mr. BROGNA. If it is in the record, what do you want of it as an exhibit? You have read it into the record and it has become a part of the record.

Notary BERMAN. They may want to send it along.

Mr. O'CONNELL. May it be referred to as "Exhibit 50," being the clerk's record of the proceedings at precinct 8, ward 5, on primary day, September 24, 1918?

Exhibit 50. Clerk's record of proceedings at ward 5, precinct 8, primary day, September 24, 1918.

Mr. O'CONNELL. Now, have you the clerk's record for election day on November 4 of ward 5, precinct 4?

Mr. BURLIN. It says the 8th day of November.

Mr. O'CONNELL. I guess that is the return for that day.

Mr. BURLIN. I guess it is the return for that day.

Q. Will you read to me the clerk's return of those who were challenged in that precinct on election day?—A. I find the following record: "Votes challenged, Mr. John Hurley, 68 Causeway Street. Mr. Charles K. Di Fatta, 68 Causeway Street."

Q. And that is all there is there?—A. That is all there is there.

Q. No reason given for challenging or by whom it was challenged or anything else?—A. No.

Q. Will you read what is annexed about a defective ballot?—A. I find the words "defective ballot. Through a misunderstanding a ballot was given Harris Rutstein by a mistake, which was defective, by the warden."

Mr. O'CONNELL. I introduce that record and ask to have it marked.

Exhibit 51. Record of clerk on election day, November 4, 1918, at ward 5, precinct 4.

Q. Now, have you got the record of precinct 8, ward 5, for election day?—A. I have.

Q. Will you read that part which has reference to the challenged? Read me what it says.—A. I find the following: "The following-named persons' votes were challenged on account of illegal registration: Henry S. Marks, 19 Causeway Street; Peter Dunkelow, 19 Causeway Street; John T. Gibbons, 107 Green Street; David J. Dyer, 19 Causeway Street; Martin Manning, 19 Causeway Street; Ribhard Porter, 19 Causeway Street; John McGowan, 19 Causeway Street; Francis J. Dowd, 13 Cambridge Street; Edmund A. Plummer, 13 Cambridge Street; Charles H. Meadows, 39 Cambridge Street; Charles E. Maynard, 143 Court Street. Challenged by John T. Gibbons, 107 Green Street."

Q. Is that all the record says about the challenges?—A. Yes.

Exhibit 52. Record of the clerk at ward 5, precinct 8, on election day, November 4, 1918, last page.

Q. That is the last page of that record, containing what took place on that election day?—A. Yes.

Q. Now, Mr. Burlen, when you are requested by the committee in Congress to produce papers, all these exhibits introduced are to be introduced at that time. That is understood, is it, Mr. Burlen?—A. Yes.

Q. Now, have you the original lists of those who voted in the primary, September 24, in wards 5 and 6—A. I have.

Mr. O'CONNELL. I now introduce them and offer them in evidence.

Exhibit 53. Eleven envelopes containing check lists of the ward 4 primaries, September 24, 1918.

Exhibit 54. Nine envelopes containing check lists of ward 6, State primary, September 24, 1918.

Q. Have you the votes cast and the voting lists of those who voted on election day in wards 5 and 6 in Boston?—A. I have.

Mr. O'CONNELL. I offer them and ask to have them marked as an exhibit. I am offering both of these lists at this time as a part of our evidence to show by the original records that many of those names whom we have alleged to have voted illegally at both the primary and the election day did, as a matter of fact, vote, and that their votes should be thrown out.

Exhibit 55. Eleven envelopes containing check lists used at the State election, November 4, 1918, ward 5.

Exhibit 56. Nine envelopes containing check lists used at the State election, November 4, ward 6.

Mr. O'CONNELL. Now I want to introduce all the votes.

Q. Have you, as election commissioner of the city of Boston, all the votes that were cast at the primary on September 24 in wards 1, 2, 3, 4, 5, and 6, which is the tenth congressional district, and also all the votes that were cast at the election, November 5, 1918, in wards 1, 2, 3, 4, 5, and 6?—A. According to your request, these ballots have been retained here in the vault.

Mr. O'CONNELL. I now offer all these ballots and ask to have them impounded. Mr. Notary, will you order these ballots impounded?

Notary BERMAN. Mr. Burlen, the ballots are now ordered impounded and left in your custody until called for by such process as Congress or its committee may issue.

Mr. O'CONNELL. But subject to your orders.

Notary BERMAN. But subject to a request from me to send the papers and ballots to Washington.

Mr. BROGNA. I question at this time whether his honor has any right to take the ballots from their proper place.

Notary BERMAN. I am of the opinion that the papers necessary may be impounded and sent, and as that may be done at such time as may be necessary to have it done for the protection of myself and Mr. Mancovitz as I may decide necessary.

Mr. BROGNA. As one of the counsel for Mr. Fitzgerald I want to say now that we object to the ballots being taken from the office of the board until we have authorities to show whether they can be taken from here without an order from Congress.

Mr. HARRINGTON. That is understood.

Mr. BURLEN. I think the board will protect itself in this matter. Of course, it is thoroughly understood, Mr. Mancovitz as notary, has a right to examine these ballots.

Mr. O'CONNELL. You started, Mr. Berman, to make a statement.

Notary BERMAN. It was a statement with reference to all papers, books, and ballots, books, and stickers and other memorandum pertaining to the primary and to the election which are ordered impounded and to be sent to Washington at such time as may be ordered by Congress, its committee which hears the case and myself, and are left in the custody of the board.

Mr. BURLEN. You have no objection to sending the proper communication at that time?

Notary BERMAN. At that time.

Mr. BURLEN. At any time.

Notary BERMAN. Yes; at such time when we are ready to make the request.

Mr. O'CONNELL. In order that you may have it as a matter of record?

Mr. BURLEN. I think so. What you want is the primary and election ballots and papers?

Mr. O'CONNELL. Yes.

Notary BERMAN. Now, does that finish the work here at the election commission?

Mr. O'CONNELL. I think that is all, at the present time.

Mr. BURLIN. Gentlemen, I shall be here until to-night at 5 o'clock. If there is anything you think of——

Mr. BROGNA. It is understood that the order to impound will not interfere with our going over the paraphernalia in this case.

Notary BERMAN. We will adjourn to the Federal Building at 2 o'clock.

Mr. BROGNA. For what purpose?

Notary BERMAN. This hearing is adjourned until 2 o'clock at the Federal Building, room 442.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I hereby certify that the foregoing in this volume, containing about 31 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

BOSTON, *March 4, 1919—10.20 a. m.*

CATHERINE C. LEVERONI, sworn:

Direct examination by Mr. O'CONNELL:

Q. Mrs. Leveroni, your full name is what?—A. Catherine C. Leveroni.

Q. And where do you live?—A. No. 32 Carmel Street, Chelsea.

Q. How many years have you lived there?—A. Since the Chelsea fire, almost 11 years ago.

Q. You are the wife of James T. Leveroni?—A. Yes.

Q. And his business is what?—A. Well, he works on Blackstone Street in a restaurant.

Q. Wilfert's restaurant?—A. Yes.

Q. That's 69 Blackstone Street?—A. Yes, sir.

Q. How many children have you?—A. Eight.

Q. And their ages?—A. From 23 to 5.

Q. And those children, the young children, go to school in Chelsea?—A. Yes.

Q. Does your husband vote in Chelsea?—A. Yes.

Q. You don't live at the New England House?—A. No; I don't.

Q. You didn't live there the 1st of last April?—A. No, sir.

Q. And you never lived there?—A. I never did; no.

Q. And during all these—— How many years were you married, would you say?—A. About 24.

Q. And during this time you have always lived with Mr. Leveroni?—A. Yes.

Q. There was no separation, of course; of course not?—A. No.

Q. He is home every night with you?—A. Well——

Q. Except occasionally, when he is out?—A. Occasionally.

Mr. O'CONNELL. I think that's all.

KATHERINE C. LEVERONI.

GEORGE W. POGGI, sworn:

Direct examination by Mr. O'CONNELL:

Q. Mr. Poggi, you volunteered here as a witness to-day, did you?—A. I got a summons, as I said, but my name wasn't called.

Q. You have been summoned and are willing to testify voluntarily?—A. Yes, sir.

Q. Give us your first name?—A. George W.

Q. And what is your business?—A. Liquor business.

Q. And you live with your sister, Victoria A. Poggi, 50 Pleasant Park Road, Winthrop?—A. Yes, sir; board there.

Q. You board there, you say?—A. Yes.

Q. Have you been there recently?—A. Oh, yes.

Q. How many years have you been going there?—A. I haven't been there a year.

Q. When did you first go there?—A. I broke up my home and took a room at the Rossmore.

Q. When did you go to live in Winthrop is my question, Mr. Poggi?—A. I went there, not there quite a year, since my brother died.

Q. Not quite a year?—A. Yes.

Q. So about a year ago this time you were there?—A. Yes; yes.

Q. And before that you voted at Orient Heights, East Boston?—A. Yes; ward 1.

Q. For a number of years?—A. Yes; very near 10 years.

Q. And you are now living at 50 Pleasant Park Road?—A. Yes.

Q. And you didn't want to vote in Winthrop?—A. I never did.

Q. You didn't want to?—A. I always voted in Boston on account of my line of business.

Q. What is your line of business?—A. Liquor.

Q. So, in order to protect your liquor business, you voted in Boston?—A. Yes, sir.

Mr. O'CONNELL. That's all.

Q. Have you got anything to do with the hotel registration at the Rossmore?—A. I got a room there.

Mr. MANCOVITZ. Got a room there permanently?

The WITNESS. I had one right along, sir.

Mr. MANCOVITZ. You consider that your home?

Mr. HARRINGTON. We object to this. There is no examination to take place by the other side.

Mr. BERMAN. This deposition is being taken by counsel for Congressman Tague. Your attorneys have withdrawn.

Mr. MANCOVITZ. Why don't you ask him where his home is?

Mr. O'CONNELL. I have asked him that.

Mr. MANCOVITZ (to deputy marshal). If this is your room, if you want your room, you can order us out of here. We have no right to be here.

DEPUTY MARSHAL. How soon will you be out of here?

Mr. O'CONNELL. Just as soon as we can, Mr. Tighe. It is all right for us to be here; I went to Judge Morton and he gave us permission to use this room.

That's all, Mr. Poggi.

GEORGE W. POGGI.

JOHN D. FEENEY, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name, please?—A. John D. Feeney.

Q. And where do you live?—A. No. 39 Elm Hill Park, Roxbury.

Q. Your business is what, Mr. Feeney?—A. Insurance broker.

Q. Where is your place of business?—A. No. 70 Kilby Street.

Q. Boston?—A. Yes.

Q. How long have you been living out on Elm Hill Park?—A. Oh, about 10 years.

Q. What did you say your first name was?—A. John D.

Q. Where did you get the summons to appear here?—A. It was left there.

Q. You are a married man?—A. No.

Q. Who do you live with there?—A. My mother and father.

Q. How long have you lived with your mother and father?—A. Since I was born.

Mr. O'CONNELL. That's all.

THOMAS W. LUCAS, sworn.

Direct examination by Mr. O'CONNELL:

Q. Your full name, Mr. Lucas?—A. Thomas W. Lucas.

Q. You received a summons to come here?—A. Yes, sir.

Q. Where did you receive it?—A. Rossmore Hotel.

Q. You have been living in Beachmont for how long?—A. Beachmont? I don't live in Beachmont.

Q. Ever stopped in Beachmont—I beg your pardon, Revere?—A. I stayed some years ago in Beachmont; I have a room in Revere.

Q. How long have you had a room in Revere?—A. On and off there summers.

Q. Have you got that room in Revere now?—A. Yes, sir.

Q. Do you go there?—A. Sometimes.

Q. How often do you go there?—A. Whenever I feel like it. I have a room there and a room in the Rossmore Hotel.

Q. How often do you go there?—A. No particular time.

Q. Are you married?—A. No, sir.

Q. Who occupies that house, 575 Beach Street, Revere?—A. I don't know now. I used to live there. I think Herbert Watson.

Q. Who?—A. I don't know who lives there, whether Herbert Watson or who lives there.

Q. Do you know Miss Wallace there?—A. No.

Q. Are you the same Thomas F. Lucas that is in the Revere directory at 575 Beach Street?—A. Not Thomas F.; Thomas W.

Q. I beg your pardon.—A. I have a room there; yes, sir.

Q. I suppose your principal reason in rooming at the Rossmore Hotel is on account of the liquor business there?—A. Not particularly.

Q. That's one reason, isn't it?—A. One reason; yes, sir.

Q. Isn't it, Mr. Lucas, the real, the principal reason?—A. I can't say so. I haven't got my mind set that strong to say so.

Q. Well, I suppose it's about the fact, isn't it?—A. I haven't got my mind set so strong on it; possibly, I'm a little interested in the liquor business, as you say.

Q. You are interested a good deal in the liquor business, to the extent of living in Boston in order to get a license?—A. I've been in the business for 21 years. I ought to have a little interest in it.

Q. To carry out that interest, you want the right to vote in Boston?—A. Certainly. I have voted——

Mr. O'CONNELL. I think that's all. Put in the record Mr. Callahan comes back. Do you want to cross-examine this witness?

Mr. CALLAHAN. I don't want to cross-examine. Simply, you want to say what you started. I don't want to cross-examine; I don't want to hurt your feelings; you started to tell Mr. O'Connell that you voted in other wards in the city; is that true?

The WITNESS. In previous years. I got my tax bills——

Mr. CALLAHAN. Yes; you regard Boston as your home?

The WITNESS. I vote and pay taxes.

Mr. CALLAHAN. You regard it as your home, don't you?

The WITNESS. Pay taxes.

Q. (By Mr. O'CONNELL.) What taxes do you pay?—A. Single man's tax; I'll show it to you.

Q. How much is it?—A. \$2.

Q. Didn't you know how much it was?—A. Why, sure.

Mr. CALLAHAN. You want to offer that as an exhibit [indicating paper]?

The WITNESS. No; I don't want to exhibit anything.

Mr. O'CONNELL. That's all.

PATRICK A. McDONALD, sworn:

Direct examination by Mr. O'CONNELL:

Q. What's your name?—A. Patrick A. McDonald.

Q. Where do you live?—A. No. 205 Bay State Road, Boston, Mass.

Q. Do you vote there?—A. Yes, sir.

Q. What's your business?—A. Hotel, wholesale liquor business, retail liquor business.

Q. Where?—A. I've got five or six places, you want me to give the addresses?

Q. Among them is the Ketterer Hotel?—A. Yes, sir.

Q. Where is that located?—A. Nos. 170 and 168 Canal Street—172 and 168.

Q. You were summoned to bring here the records of that house, were you?—A. Yes, sir.

Q. Have you got the register showing those who were at your house on the 1st of last April?—A. No, sir.

Q. Have you got the records showing who were at your house the week before the 1st of last April or the week after?—A. I wasn't asked to bring them.

Q. What were you asked?—A. To bring the records of my hotel from March 24 to April 7, 1919.

Q. Have you got any records at all of 1918, you mean?—A. 1919.

Q. Have you got any records of 1918?—A. No, sir.

Q. Where are they?—A. Destroyed.

Q. Who destroyed them?—A. Either the manager, my clerks, or——

Q. Why did you destroy them?—A. After the true name went into effect——

Mr. O'CONNELL. John I. Fitzgerald is making a disturbance.

A. After the true-name bill went into effect in August, it was necessary to destroy the records of the old.

Q. When did you destroy these records?—A. August 2 or 3, along the early part of August, I don't know the exact dates.

Q. Have you no records at all of your hotel concerning last May?—A. No, sir.

Q. Or April?—A. No, sir.

Q. Have you got your cashbooks?—A. No, sir.

Q. Where are they?—A. Destroyed.

Q. Your ledger destroyed?—A. Under those date; yes, sir. The dates you summoned me on I haven't got, anyway.

Q. So you destroyed the cash book and ledger and everything on that time?—

A. We audit our books. I employed an auditor the year round, and I've got seven stores, and by so doing I know where I am.

Q. Do I understand you had destroyed them as the result of the true-name bill?—A. No, sir.

Q. There's nothing in the true-name bill that required you to destroy any books?—A. No.

Q. Your answer is "No." so they can get it down there?—A. No.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. McDonald, I'll ask you a few questions. You say just prior, or just after this new law went into effect, you audited your books?—A. We always audit them. I keep an auditor the year round.

Q. That was the final audit for last year?—A. Yes, sir.

Q. Will you show your summons, Mr. McDonald?

(Witness produces summons.)

A. I want this summons returned to me.

Q. This is a summons to Mr. Patrick A. McDonald, Ketterer Hotel. It summons him to appear before the notary in room 395, Post Office Building, the 4th of March, and requested him to bring with him the register of Ketterer's Hotel for the days from March 24 to April 7, 1919.

(Summons returned to witness.)

Redirect examination by Mr. O'CONNELL:

Q. Tell me this, how do you make out your income tax, both for the State and Nation, if you don't keep your books?—A. I have an auditor, and he makes them out and he takes transcripts from our books.

Q. And if, by any inspection of the transcripts, your income could not be ascertained, how could he find out, if your books were destroyed?—A. He has some transcripts. Our register would not have anything to do with the income——

Q. I am talking about the cashbook and the ledger showing your particular income; where are they?—A. We don't have any books.

Q. How could you make any income-tax return of either State or Nation without your books? I am talking about last April.—A. Our books are audited every month and he takes transcripts.

Q. Then, do I understand you destroy your books?—A. Not every month; every six months or four months or a year. When the hotel clerk fills the ledger, instead of filing it away we destroy them. We don't keep that ledger; we keep a transcript.

Mr. O'CONNELL. That's all.

Mr. HARRINGTON. This man refuses to come back and sign for his testimony. He is going out.

Mr. BERMAN. We will issue another summons.

Mr. HARRINGTON. He said he wouldn't, your honor.

JOHN B. PISCOPO sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. John B. Piscopo.

Q. Where is your residence?—A. No. 452 Audubon Road.

Q. Your business?—A. No. 66 Causeway Street.

Q. What is that business?—A. Hotel Lucerne.

Q. You have been summoned to bring here records of your register last April 1?—A. Yes, sir.

Q. Have you got the records?—A. No, sir.

Q. Where are they?—A. We destroyed them.

Q. You destroyed them?—A. In the hotel.

Q. You are the owner, the only proprietor of it?—A. Yes, sir.

Q. Did you give orders to destroy them?—A. Yes, sir.

Q. Have you got your book showing how much money you took in that hotel last year?—A. Got books showing the money; haven't the names. It's a cash-book.

Q. How does it come you have a cashbook without having the names?—A. Names go on the register, and we have to take them from the register.

Q. Have you cashbooks showing the situation, as far as your income was concerned, on the 1st of last April?—A. Just the amount?

Q. Have you got them?—A. I presume I have in the hotel; I haven't here with me.

Q. You were asked to bring all books?—A. Well, you says register; didn't say books.

Q. What books do you keep down there in connection?—A. We had a loose-leaf register. Now we have a regular book.

Q. Can you tell from your cashbook the number of people who stayed at your hotel on that night?—A. No, sir.

Q. You could not?—A. No.

Q. Have you any records, books of any kind, showing the number of people who stopped at your hotel the 1st of April, 1918?—A. No.

Q. All books and records were destroyed last August?—A. Yes, sir; all previous records.

Q. And all books of accounts?—A. There's no accounts; everything is cash.

Q. You run a cash house; everything paid by the night?—A. Yes, sir.

Q. Is the liquor also in connection?—A. Everything is cash.

Q. Is the liquor also in connection with the Hotel Lucerne?—A. Yes.

Q. You wouldn't know who your guests were on the 1st of last April?—A. No, sir.

Q. Is there anybody who would know?—A. Well, I don't know.

Q. Who was the clerk there at that time?—A. Well, the fellow who was there isn't there now.

Q. Isn't there now? Who was it?—A. Who was it?

Q. What's his name?—A. I think his name was Clory—C-l-o-r-y.

Q. What's his first name?—A. Dregani—D-r-e-g-a-n-i.

Q. How long had he worked for you?—A. Well, he was with me 10 or 12 years.

Q. And you don't know his full name?—A. I gave it.

Q. What's his address?—A. Couldn't say.

Q. Any idea where he is or could be obtained?—A. I presume he can.

Q. Where?—A. In town.

Q. Whereabouts in town?—A. I couldn't say.

Q. When did you last see him?—A. I saw him quite often. He used to be away and now he's come back.

Q. When did you discharge him, or when did he leave you?—A. He left in war time and went to work for the Government in Portsmouth.

Q. When?—A. Some time last summer.

Q. Just prior to the ballot-law hearing, wasn't it?—A. Yes, sir.

Mr. O'CONNELL. I think that's all.

Mr. BERMAN. Mr. Piscopo, it's necessary for you to sign your testimony that you gave here this morning. When is it convenient for you to return?

The WITNESS. Have I got to return again?

Mr. O'CONNELL. Just to read you testimony and sign it. Do you want to inquire of Mr. Piscopo any questions?

Mr. CALLAHAN. No.

JOHN B. PISCOPO.

PATRICK DALY, sworn :

Direct examination by Mr. O'CONNELL :

Q. What is your full name?—A. Patrick Daly.

Q. Your full name, Mr. Daly?—A. Patrick Daly.

Mr. BERMAN. Speak up loud enough, Mr. Daly, so the stenographers will hear you.

Q. Where do you live?—A. No. 14 Devens Street, Charlestown.

Q. How long have you lived there?—A. Four years.

Q. And your business?—A. Laborer, flour warehouse.

Q. Where?—A. Sands, Taylor.

Q. Are you the same Patrick Daly, registered from 76 Green Street?—A. No, sir.

Q. Do you vote from there?—A. No, sir.

Q. Where do you vote from?—A. Don't vote at all.

JOHN JOSEPH LARKIN, sworn :

Direct examination by Mr. O'CONNELL :

Q. What is your full name, Mr. Larkin?—A. John Joseph Larkin.

Q. You reside at No. 11 Paisley Park, Dorchester?—A. Yes, sir.

Q. How long have you been living there, Mr. Larkin?—A. About six years.

Q. Your business is what?—A. Work for Filene, fur business. You may have me listed at my working address as the Boston Storage Warehouse. I work for Filene, but we have a place out there. I don't know as it's there or at Filene's. I've been at Filene's six years.

Q. How old are you, Mr. Larkin?—A. Thirty-four.

Q. Your landlady is Mrs. Ryan?—A. Yes, sir.

Q. Mrs. Mary Ryan?—A. Yes, sir.

Q. Where do you vote?—A. Haven't voted at all.

Q. Are you registered from Hotel Bowdoin?—A. I don't know where it is.

Q. When did you last vote?—A. I never voted.

Q. On the back of this will you write your name [handing witness paper]?

Mr. O'CONNELL. I introduce this as an exhibit.

Q. This is your signature?—A. Yes; my signature. You can get me at any time at either No. 11 Paisley Park or Filene's.

(Summons marked "Exhibit 35.")

JOHN J. LARKIN.

JOSEPH F. RAE, sworn :

Direct examination by Mr. O'CONNELL :

Q. Your full name?—A. Joseph F. Rae.

Q. Where do you live?—A. Crawford House.

Q. Are you the proprietor of the Crawford House?—A. I am.

Q. And where did you live before you went there?—A. Dorchester.

Q. Whereabouts?—A. 111 Ocean Street.

Q. Does your wife live there now?—A. No; my wife lives in Brookline.

Q. Whereabouts?—A. No. 157 Naples Road.

Q. How long has she been living there?—A. She lives there occasionally.

Q. How long?—A. Oh, I guess four years, perhaps; since we owned the house.

Q. You own the house and bought that house?—A. She owns it.

Q. And you live there?—A. Occasionally.

Q. You own the furniture in the house?—A. No; she owns it.

Q. Your clothing in the house?—A. Sometimes.

Q. Isn't it there now?—A. Some of it.

Q. You pay the bills for that house, of course?—A. Some of them.

Q. And, as a matter of fact, Mr. Rae, there is no separation between you and your wife?—A. No, sir.

Q. You and she get along just as well as when I first knew you, and you and she had just got married?—A. Sure; get along nicely.

Q. As a matter of fact, she never lived at the Crawford House?—A. She did.

Q. When?—A. I can't tell you exactly when; whenever she sees fit.

Q. When she can't get a girl at home or something like that, she comes down to the Crawford House?—A. She don't live down at the Crawford House or Naples Road, either. She lives where she sees fit.

Q. As a matter of fact, she lives anywhere she pleases?—A. She does; wherever she pleases.

Q. Of course, Naples Road is her home?—A. Not always.

Q. But where her furniture is?—A. At the present time; yes, sir.

Q. Where your furniture is?—A. Yes.

Q. Sure; and you pay all the bills of the home—the butcher and the baker——

A. Oh, no; I don't pay all of them. She pays some of them.

Q. You pay some of them, the household bills?—A. Anything she asks me to pay, I pay for.

Q. I suppose the furniture is insured?—A. Yes; I believe it is.

Q. Do you know whose name it was in?—A. In her name.

Q. Sure of that?—A. Yes.

Q. Have you got the register of the Crawford House with you?—A. No, sir.

Q. Where is it?—A. Burnt up.

Q. When was it burnt up?—A. The 3d of February, 1919.

Q. Third of February, 1919?—A. Yes.

Q. That's this year?—A. Yes, sir.

Q. Three weeks ago?—A. Yes, sir.

Q. How did the register get burnt up?—A. Well, in the storeroom downstairs we had a fire there and it burnt up everything.

Q. So that you can't inform us about who was registered at the Crawford House around the 1st of April of 1918?—A. Well, I could tell some by my recollection.

Q. Who can you tell us of?—A. The two Grants; one lives there permanently.

Q. Who else?—A. Mr. Wilde registered there last year, and I don't recollect whether Mr. Hefferman registered there or not. A man by the name of Norton and another by the name of Fletcher; quite a number of guests.

Q. Can you give us the names of any guests living there on the 15th of last February—that is, a year ago this last month?—A. Most all those people I mentioned were there; all the people I've spoken of, I think, registered last year. Do you mean a year ago?

Q. Yes.—A. Well, I would say registered a year ago; yes.

Q. You are interested in the liquor license, of course, in the city of Boston.—A. Yes, sir; I am.

Q. If you said on your application for a liquor license that you were living in Brookline, you couldn't get a license in Boston?—A. I don't know about that.

Q. Isn't it necessary, on a liquor license in Boston—you have got to be a resident in Boston?—A. I think one party must live in Boston; not necessary for both.

Q. You are the principal party in this house?—A. Yes, sir.

Q. And naturally want to protect your interests as much as you can?—A. Yes, sir.

Q. And isn't it the real fact that the whole story about your residence at the Crawford House is to avoid any question to granting a liquor license to you?—

A. I wouldn't say that; of course it helps it.

Q. You calculate on that fact?—A. Yes.

Q. Yes.

Mr. O'CONNELL. That's all, Mr. Rae.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Rae, just a minute. You say you resided there the 1st of April last year?—A. Yes, sir.

Q. You have a permanent residence in the hotel, haven't you?—A. Yes; a permanent one.

Q. You have a summer home?—A. Yes, sir.

Q. So your wife sometimes lives in the summer home sometimes in Brookline, and sometimes in the hotel?—A. She goes away in the winter a lot, and she's away all summer.

Q. So you regard that your domicile?—A. I practically live there six months of the year.

Mr. O'CONNELL. Where's your summer home?

The WITNESS. Nantasket.

Mr. CALLAHAN. Is it Mr. Gladwin that lives at your hotel?—A. Yes.

Q. He's president of a bank?—A. Yes.

Q. President of the National Security Bank? A. Yes.

Mr. CALLAHAN. That's all.

ALFRED DI PESA sworn:

Direct examination by Mr. O'CONNELL:

Mr. BERMAN. Have you been sworn Mr. Di Pesa?

The WITNESS. Yes, sir.

- Q. What is your full name?—A. Alfred Di Pesa.
 Q. You are connected with Hotel Napoli?—A. Yes, sir.
 Q. What's the number?—A. No. 84 Friend Street.
 Q. Do you know where 26 Fenway Street is?—A. No. 26 Evansway Street.
 Q. You have been living there since the fall of 1917?—A. Yes, sir.
 Q. Where do you vote?—A. From 84 Friend Street.
 Q. That is ward 5?—A. Ward 5; yes, sir.
 Q. Evansway is in ward what?—A. I don't know.
 Q. Where does it lead from?—A. End of the Fenway, Roxbury.
 Q. Near the art museum?—A. Yes, sir; telephone is Roxbury.
 Q. What's the telephone number?—A. Roxbury.
 Q. What's the telephone number?—A. 1142 Roxbury.
 Q. That's Congressman Tinkham's district?—A. Yes.
 Mr. O'CONNELL. That's all.

Cross examination by Mr. CALLAHAN:

- Q. Where's your home?—A. I have several homes, Mr. Callahan.
 Q. Several homes; exactly. You have a summer home?—A. Summer home; I live eight months of the year.
 Q. Your summer home you live eight months of the year, and how long do you live in Roxbury?—A. I live about two or three months.
 Q. And at the hotel, how long do you live?—A. About a month this year——
 Q. April last year you were a resident of the Hotel Napoli?—A. Yes.
 Q. You consider that as your domicile?—A. I do.
 Q. And out of the three places that is the one you choose to live on the 1st of April?—A. Yes, sir.
 Mr. O'CONNELL. Are you married?
 The WITNESS. Yes, sir.
 Mr. O'CONNELL. And live out on Evansway Street?
 The WITNESS. Yes, sir.
 Mr. O'CONNELL. And furnish the house, of course, and pay the bills?
 The WITNESS. Yes, sir.
 Mr. O'CONNELL. Any children there?
 The WITNESS. No children.
 Mr. O'CONNELL. How long have you been married?
 The WITNESS. Eleven years.
 Mr. O'CONNELL. You are connected with the Hotel Napoli?
 The WITNESS. Yes, sir.
 Mr. O'CONNELL. Have you got the register of it with you?
 The WITNESS. I wasn't asked to bring it up.
 Mr. CALLAHAN. I submit this little circle ought to be disbanded and let the witness look at you.
 Mr. O'CONNELL. Who has charge of the register in your hotel?
 The WITNESS. The clerks, of course.
 Mr. O'CONNELL. Who's the man who has charge of them?
 The WITNESS. I have.
 Mr. CALLAHAN. Now, I submit this is a disturbing proceeding, stepping in between counsel and witness.
 Mr. O'CONNELL. If my associate wants to stoop over my shoulder, I have the right to complain, and I have not, and I am the only man to complain, and not you.
 Mr. CALLAHAN. When you are at your summer home your wife is there, too?
 The WITNESS. Yes, sir.
 Mr. CALLAHAN. The time you are in Roxbury your wife is there?
 The WITNESS. Yes, sir.
 Mr. CALLAHAN. You pay all the bills for all the homes?
 The WITNESS. I try to pay them.
 Q. Your wife doesn't live at the Napoli?—A. She does when I stop there.
 Q. I see; that's all. Would the register say the dates on which you are there with your wife?—A. No. I sleep at the Napoli about this time of year for a month and close our apartment and go down to the beach for about eight months, and on and off we sleep there in the summer.
 Q. About this time you close the apartment?—A. About this time.
 Q. And go down to the Napoli April 1, being the time of registration?—A. Yes, sir.
 Q. You are interested in the liquor business at the Hotel Napoli?—A. Yes, sir.
 Q. And are on the license, Mr. Di Pesa?—A. Yes, sir.

Q. Of course you know to get a license in the city of Boston a man has got to be a resident of the city of Boston?—A. Yes, sir.

Q. Who else is on the license there with you?—A. My father.

Q. At that time your father lived in Brookline?—A. My father always lived at the Hotel Napoli.

Q. His home is Summit Avenue, Brookline?—A. No; my mother lived there.

Q. But your married sister lived there?—A. Yes, sir.

Q. So there might be a question about your father living out in Brookline, and in order to prevent that you have your residence there anyway?—A. Yes, sir.

Q. Do you know anything about your uncle, Joseph di Pesa?—A. Yes, sir.

Q. Lives at Strathmore Road?—A. No; lives at Hotel Napoli.

Q. How long ago was he out there?—A. I don't know. I guess he wasn't out there at all to sleep.

Q. I didn't ask you anything about sleeping. Why do you inject that? How long ago was he out at Strathmore Road, was my question.—A. I don't know.

Q. Very frequently, doesn't he? Who lives at Strathmore Road?—A. One of my sisters.

Q. And doesn't he look after your sister?—A. Goes out to see her.

Q. She's a widow?—A. She's a widow.

Q. Has a family?—A. Oh, yes.

Q. She is the particular care of your Uncle Joseph?—A. Yes, sir.

Q. So that being the case, there is no doubt of his going out there frequently to see how things are going along?—A. I imagine he does.

Q. As a matter of fact, doesn't he live out there with her?—A. No.

Q. He pays the bills, doesn't he?—A. No; my father does.

Q. (By Mr. CALLAHAN.) To clear up one thing, as a matter of fact, your only interest is to secure a liquor license, whether you could secure it from your Roxbury home instead of the Hotel Napoli?—A. I always registered from the Hotel Napoli, even when we lived on Hanover Street.

Mr. BERMAN. Could you secure a liquor license if your father was on the license and lived in Brookline, assuming you gave your residence in Roxbury and your father gave his residence Summit Avenue, Brookline; would you be entitled to a license or would the licensing board issue a license to you?

The WITNESS. I don't know.

Mr. BERMAN. You do know in order to get a license in the city of Boston you've got to be a resident there?

The WITNESS. Yes, sir.

Mr. O'CONNELL. That's all.

CHARLES W. PARKER, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Charles W. Parker.

Q. What's your place of business?—A. New England House.

Q. And that is your residence?—A. Yes, sir.

Q. What's the number?—A. Nos. 24, 25, 28. The numbers are all mixed up down there.

Q. Blackstone Street?—A. Blackstone Street.

Q. Have you record of the guests of your hotel who were registered on the 1st of last April?—A. Yes, sir.

Q. Will you please turn to it?

(Counsel examines register.)

Q. Have you got a man by the name of Earl O. Barney registered there?—A. Not on the 1st of April.

Mr. CALLAHAN. Is this all the 1st of April?

Mr. O'CONNELL. Yes.

Q. March 31?—A. No, sir; don't think so. Registered two or three years ago.

Q. What do you mean "registered," city election?—A. No; room.

Mr. CALLAHAN. You're talking about registration and reading from the listing book—

Mr. O'CONNELL. I'm reading nothing.

Mr. CALLAHAN. Yes; you are.

Mr. O'CONNELL. What do you mean to tell me—that I am reading?

Mr. CALLAHAN. Yes; you are.

Mr. O'CONNELL. I'm reading nothing.

Mr. CALLAHAN. Yes; you do.

Q. Have you got a regular room list here?—A. What do you mean?

Q. Have you got a list of any regular roomers?—A. Might be some of these. No; we don't register regular roomers. They don't register—only when they first come in. If they are regular, they don't register.

Q. Has Earl O. Barney got a room in your hotel?—A. I don't think he has at the present time, sir.

Q. Did he have on the 1st of April, 1918?—A. I couldn't tell that.

Q. Would that book show that, being the register of 1918?—A. Yes, sir.

Q. Do you find the name of Earl O. Barney?—A. People that register regularly, people that don't register every month or every year—

Q. That's not the question. The question is, Have you got any record of Mr. Earl O. Barney being at your hotel on that day?—A. No, sir.

Q. Have you got any record of Albert Bullard being registered on that day, April 1?—A. I don't think so.

Q. Have you got any record of John W. Busted being registered on that day?—A. Not on the book.

Q. William Carroll?—A. No.

Q. Anthony Castiliano?—A. No.

Q. William Copeland?—A. No.

Q. James Coster?—A. No.

Q. Joseph Curran?—A. No.

Q. James J. Donovan?—A. No.

Q. Gilbert Gallant?—A. No; he's one of the help.

Q. Where does he live?—A. New England House.

Q. All the year?—A. He was in the service, but back now.

Q. Aside from the being in the service, is he always there?—A. Yes.

Q. Married man?—A. I don't know.

Q. How old a man is he?—A. I should say about 30. By the way, a lot of these people you mentioned are still in the house and rooming there.

Q. I'm asking you if you have any record?—A. I haven't got any record here.

Q. Anybody got any record?—A. On the books, if you want them brought up.

Q. I'll excuse you, and you can bring those books back here. I want those books, too. That's the only way to do. I don't want to waste your time and mine.

Mr. O'CONNELL. I want to summons this witness and ask him to return here and bring with him all the books showing people who were in that hotel on the 1st of April, 1918. Of course, this book I might merely introduce for the purpose of this hearing—the names, if registered, as of that date. Will you read those names off?

April 1, 1918, J. H. Power; no address. No; that's J. H. Berry; no address. The next one, Charles Grossi and wife, no address; Philip W. Brandon and wife, Philadelphia; E. W. Locke, Plymouth; Donato Dacetro and wife; J. H. Toohey, Rutland, Vt.; A. Rosso and wife; Salvatore and wife, Mescuri; Thomas Conboy and wife, Providence; A. McKinnon, Waltham; C. H. Thompson, Portland; E. W. Hutchinson, Lexington; M. L. Moody, Brooklyn, N. Y.; M. Joseph Levine, city.

Q. Will you bring back for this afternoon whatever records you have down there?—A. I can't bring back. I will try and bring back what's prepared. If a man registered there and then returned, we don't reregister him.

Q. You must have some record as to when that man checks out.—A. We have a book.

Q. Don't you keep—

Mr. O'CONNELL. Mr. Mancovitz, please do be quiet and not keep interrupting the proceedings.

Q. Mr. Parker, haven't you any books showing what a man pays you?—A. Yes, sir.

Q. And when he pays you?—A. Yes.

Q. Can't you bring them?—A. I can't say. I'll try, because it's simply a cashbook; transient's book.

Q. I don't want any transient books; I want permanent books. I want books of permanent guests, records of permanent guests.—A. A man might come and stay a week or two weeks, six weeks, two months, or three months and then go on our regular book—go on our cashbook.

Q. Have you got any James J. Leveroni registered on that time?

Mr. CALLAHAN. You haven't got the register book there; you've got the police book. It is absolutely unfair for you to ask if a man is registered—

Q. Have you on the register of the New England House the name of James J. Leveroni?—A. We have not on those dates; might have some years back.

Q. How long back have you any around that time?—A. Not that I recall; no.

Q. Have you any registered at or around that time, James T. Leveroni?—A. Not that I know.

Q. That is, if those men were registered at your house some time in the past you would have a record of it?—A. Might and might not.

Q. And that is—A. If they were there regularly for a year or so, we would naturally have them on our books if they were there a month or so; something of that kind.

Q. Neither of those we've spoken of not there permanently?—A. No, sir.

Q. Do you know either of those men?—A. I don't know that I ever did.

Q. Do you know one was a bartender across the street at Wilfert's?—A. I think I do.

Q. He didn't live at your house?—A. He didn't; no.

Q. Have you got John D. Volenti on or around that date?—A. Not that date.

Q. On or around that date?—A. Not that date; used to be there permanently.

Q. When?—A. Two or three years ago. He married one of the table girls. He stays there now once in a while.

Q. Anthony Volenti?—A. Yes, sir.

Q. He used to be there years ago?—A. He registered and always registered.

Q. What do you mean, "registered"?—A. Their names have gone in every year.

Q. Who gives those names?—A. The clerk.

Q. A standing order; that is, what is to be done with them?—A. They want us to continue their names.

Q. Who are they given to?—A. The man in the office.

Q. Did any of these men give you their names that way to give him?—A. I don't recall any.

Q. Who else did they give the names to besides you, Mr. Parker?—A. Three or four different ones—clerks.

Q. In other words, if a man has ever been to your house and wants to continue on the voting list, all he has got to do is to tell you so and you give the name, is that right?—A. Do it that way and do it the reverse. We have got two clerks that have been there 15 years. One holds it in New Ipswich and the other Athol, and they hold the voting list that way. And I personally know there are some rooming there at the present time, just the same as my clerks that have held their residence that way.

Q. You're glad to help them out?—A. I'm not helping them out; I'm—yes; helping them out. If they want to register in Athol, I let him; also in New Ipswich. I don't dictate to the clerk; if he wants to register from the New England House, if he's been there 15 years, I don't care.

Q. And in the reciprocity, of course, that is reversed?—A. Yes.

Q. A man registering in Boston here would be carried along just the same as your clerks?—A. Well, yes; if you were present there from week to week; we don't scratch them off.

Q. You don't scratch them off?—A. No.

Mr. O'CONNELL. I think that's all.

Cross-examination by Mr. CALLAHAN:

Q. I understand, Mr. Parker, that there are some men who live at your house for months and years who are not on your register there?—A. Why, we don't ask a man to register if he comes there. We've got men there that have been coming there; you've got a witness out here that told me to-day he'd been there 18 years ago.

Q. Yes; the hotel is right in the heart of the market district?—A. Market district.

Q. Market district, where the farmers come in there and register and live for months at a time?—A. Sure; and there are some that register every night. They are market gardeners and come from Arlington.

Q. Mr. O'Connell mentioned certain names to you and you said you remembered well those names there for long periods, but didn't register on that book.—A. Not on that book.

Q. Not on that book, but there is not any doubt they have been there and lived there during the past year?—A. I wouldn't say past year.

Q. You don't recall?—A. Might be two years ago—three years ago.

Q. But if they came, they might stay for a week, or a month, or longer, and be registered in that book?—A. Some names in there have been there 15, 16, 12, or 20 years.

Q. You have no arrangement—nobody in your hotel has any arrangement with any man in politics in that district to give names to the police in the spring?—A. Never.

Q. Or engaged in any way in any illegal registration?—A. Not to my knowledge.

Q. Do you know Mr. Lomasney?—A. Not personally; by sight; never spoke to him.

Q. Know Mr. Fitzgerald?—A. I haven't spoken to Mr. Fitzgerald; I know him by sight.

Q. You have no political relations with those men?—A. No, sir.

Q. No interest in politics whatever?—A. No.

Q. No active interest?—A. No. I don't know that anyone knows how I vote down that way.

Mr. O'CONNELL. Just one question. You do know it is customary for any of these men who have lived in your hotel in the past, if they have gone away and come in and say they would like to have you carry them on the list, you do it?

The WITNESS. Yes, sir.

Mr. O'CONNELL. Yes; that's all.

Mr. CALLAHAN. That is, they consider that their home?

The WITNESS. Well, I don't know what they consider. They come there to make it their home, and as I say about my clerks, they have been with me 15 years and they claim it home enough to register in Boston.

Mr. CALLAHAN. They choose that as their domicile?

The WITNESS. They choose and they vote in Boston on account of the license business.

Mr. CALLAHAN. How many rooms have you?

The WITNESS. About 90.

Mr. O'CONNELL. And on account of some license questions, you are pleased to have as many vote from there as you can?

The WITNESS. I never ask them.

Mr. O'CONNELL. I didn't ask you that; but you say you'd be pleased.

The WITNESS. Exactly.

Mr. CALLAHAN. You don't go so far as to ask your clerks to register for a license, do you?

The WITNESS. No; I have not.

Mr. O'CONNELL. I wish you would bring the book up and we will see what we can find out, and then I will tell you what I will do with you.

The WITNESS. Come down to lunch with me this noon on me.

Mr. O'CONNELL. That's the best thing. [To Mr. Callahan.] You ought to go, too.

Mr. CALLAHAN. I have been there and had hundreds of lunches in the place and I have enjoyed them.

Mr. O'CONNELL. That's all.

CHARLES W. PARKER.

GEORGE J. LOW, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. George J. Low.

Q. Where do you live?—A. Hotel Central, 21 Green Street.

Q. You got your summons from where?—A. My summons was brought to me by the boy who lives in Charlestown.

Q. Whereabouts in Charlestown?—A. No. 15 Harvard Street.

Q. How old is your boy?—A. Going on 19.

Q. Lives with Mrs. Low?—A. Yes, sir.

Q. The rest of the family live over in Charlestown?—A. I'm the rest of them. I moved over here for business purposes.

Q. What business purposes?—A. Well, I'm in the wire-screen business; night watchman.

Q. Where's your place of business?—A. No. 39 Court Street.

Q. Hotel Central is what number Court?—A. No. 21 Green Street.

Q. And that's right below there?—A. Right up close by.

Q. Charlestown is away from your place of business; what part of Charlestown did you say?—A. No. 15 Harvard Street. I left there two years ago, a little over.

Q. Where do you vote?—A. I vote on Norman Street, I think it is; the precinct just below the hotel there: a minute-or-two walk.

Q. How often do you go over to Charlestown?—A. I don't go over. I haven't been in that house for two years.

Q. Do you own any property there?—A. I have no property there?

Q. Your wife and boy live there?—A. Run a small lodging house.

Q. Over in Charlestown?—A. Yes; they run it; yes.

Q. Who is the proprietor of the Hotel Central?—A. Mr. William Walley.

Q. Where does he live?—A. He lives in the hotel.

Q. Do you know Cyrus N. Campbeli?—A. Yes; he comes around there. He's proprietor, too. They're in partnership, I guess. I've known him 25 years. I understand he owns part, if not all.

Q. What's the number of your room?—A. No. 72. The same I have occupied for over two years.

Mr. O'CONNELL. All right; that's all. Mr. Low.

RAYMOND I. REYNOLDS, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Raymond I. Reynolds.

Q. And your residence is 83 Court Street?—A. The Crawford House.

Q. Your business?—A. Liquor dealer.

Q. How many years have you been a liquor dealer?—A. Myself, personally?

Q. Yes.—A. About 10 years.

Q. Prior to going to the Crawford House, where did you live?—A. No. 38 Cambridge Street.

Q. How long did you live there?—A. Two or three years.

Q. Do you know where 52 Powder House Boulevard, Somerville, is?—A. I certainly do.

Q. Who lives there?—A. Mother.

Q. And your sister?—A. Yes, sir; certainly.

Q. You stop with her?—A. Occasionally.

Q. What do you mean by occasionally?—A. Once in a while.

Q. What do you mean by once in a while?—A. When I feel like it.

Q. Were you there last night?—A. No.

Q. Night before?—A. Yes, sir.

Q. Night before that?—A. Would the night before that be——

Q. Sunday.—A. Yes, sir.

Q. How many nights out of last week?—A. I think three nights.

Q. The week before that, how many nights were you there?—A. I can't tell you how many nights. I go out occasionally.

Q. Who lives with your mother?—A. Sister.

Q. Anybody else?—A. Brother-in-law.

Q. Who else?—A. Brother.

Q. Anybody else?—A. No.

Q. What's your mother-in-law's name?—A. Mother-in-law?

Q. I thought you said mother-in-law.—A. Brother-in-law. Mother, sister, brother, brother-in-law.

Q. Are you interested in the license of the Crawford House?—A. No; not that I know of.

Q. Do I understand that you are interested in the Crawford House?—A. No; I never said so.

Q. Where do you work?—A. I run a liquor store, 6 Green Street.

Q. If you were living in Somerville, you couldn't get a license in Boston, could you?—A. I don't think so.

Q. How many years has your mother lived in Somerville?—A. Twenty odd years.

Q. Were you born out there?—A. No.

Q. Where were you born?—A. Stoneham.

Q. And moved from Stoneham to Somerville?—A. Yes, sir.

Q. How many years since you moved to Somerville?—A. About 23 years.

Q. And been in Somerville ever since?—A. Yes, sir.

Q. As a matter of fact, Mr. Reynolds, in order to protect your license in Boston, you took up your voting residence in Boston?—A. I always have.

Q. And for that purpose you always have done it?—A. It is much handier. I open up in the morning, and I want to be near the work and want a room handy.

Q. And that's your reason for voting here; has to do a good deal with the license question?—A. A man has to be a citizen of Boston.

Q. Who owns the house in which your mother lives?—A. My sister.

Cross-examination by Mr. CALLAHAN:

Q. You say you have a room there all the time?—A. Yes, sir.

Q. And you open up your business in the morning?—A. I do occasionally; yes, sir.

Q. You regard your home the Crawford House?—A. Yes, sir; my mail comes there, and been in Boston the last 10 years.

Q. You're not married?—A. No.

Q. Clothes are there?—A. Yes, sir.

Mr. BERMAN. Do you contribute in the payment of bills in the Somerville home for your mother?

The WITNESS. Why, some bills, and some bills I don't. I allow my mother so much money; that's all.

Mr. O'CONNELL. Some of your clothes are in Somerville, of course?

The WITNESS. I have a few out there.

Mr. O'CONNELL. Your trunks are out there?

The WITNESS. I don't think I have got a trunk; I don't travel much.

RAYMOND I. REYNOLDS.

STEPHEN G. WAGNER, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Stephen G. Wagner.

Q. Where do you live?—A. No. 175 Rutherford Avenue, Charlestown.

Q. How long have you lived there?—A. About a year and a half.

Q. You formerly lived at 46 Nashua Street?—A. Yes, sir.

Q. When did you leave Nashua Street?—A. I left Nashua Street this last year.

Q. How long ago?—A. I think it was when the first registration; about the 21-31 draft left; around that time.

Q. That was in 1917?—A. Yes.

Mr. BERMAN. Speak up so counsel can hear.

Mr. O'CONNELL. I asked him if this was in 1917, and he answered "Yes."

Q. How old are you?—A. 30 years.

Mr. HARRINGTON. 1918.

The WITNESS. Whenever the first 21-30 registration; around that time.

Mr. BERMAN. That was in 1918—1917 is right.

Q. How old?—A. Thirty.

Q. Married?—A. Single.

Q. Live with your mother?—A. At present.

Q. What's your mother's name?—A. Mary

Q. Did you vote at 46 Nashua Street last year?—A. No, sir.

Q. Sure of that?—A. Positive.

Q. Did you the year before that?—A. Yes, sir.

Q. And positive you didn't vote this year?—A. No, sir.

Q. If your name was checked off it was voted by somebody else?—A. I voted in Charlestown. I don't know if anything was done down there it was done by anybody else.

Q. Give us your signature, please.

(Witness writes signature on summons.)

Q. That is your signature on this summons?—A. Yes, sir.

Q. Give it to me.

Mr. O'CONNELL. I introduce that as an exhibit.

(Marked "Exhibit 36.")

Mr. HARRINGTON. Did you say you voted in Charlestown?

The WITNESS. I voted in Charlestown.

Q. What ward and precinct?—A. Off Rutherford Avenue, about three or four blocks down from Austin Street.

Mr. CALLAHAN. Did you say you voted on Nashua Street previous to that?

The WITNESS. Year previous.

Mr. CALLAHAN. Nashua Street, where?

The WITNESS. West End.

Mr. CALLAHAN. Ever vote there before?

The WITNESS. Yes, sir.

Mr. CALLAHAN. Live there?

The WITNESS. Yes, sir.

Mr. BERMAN. What number Nashua Street?

The WITNESS. No. 46.

Mr. O'CONNELL. That's all.

STEPHEN G. WAGNER.

CHARLES L. GARVEY. sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Charles L. Garvey.

Q. What is your business?—A. Horseshoer.

Q. You live in Dorchester?

Mr. CALLAHAN. Wait; I submit you ask the question.

Q. Do you live in Dorchester?—A. Yes; sometimes.

Q. You have lived in Dorchester as long as I have known you, haven't you?—A. How long have you known me?

Q. How long have you lived in Dorchester?—A. I have lived off and on there the last two or three years.

Q. And before that, where did you live?—A. West End.

Q. How long?—A. About 15 years.

Q. Where did you live before you lived in the West End 15 years ago?—A. I'm only in the country 15 years altogether; practically all that time in the West End.

Q. But the last three or four years you have been in Dorchester?—A. Off and on.

Q. Where in Dorchester?—A. On Danube Street.

Q. You live with your folks?—A. Some friends of mine.

Q. Who are those you have lived with?—A. People I know.

Q. For instance?—A. Mr. O'Brien and Mrs. O'Brien. Lived with my brother awhile.

Q. Where does your brother live?—A. Acacia Street, Roxbury.

Q. How long did you live with him?—A. About a year and a half.

Q. You go back and forth to Dorchester on the cars?—A. Yes.

Mr. CALLAHAN. He says off and on he does.

Mr. O'CONNELL. Now, Mr. Callahan, please let him testify, and not interrupt him.

Q. What is your business?—A. My business is horseshoeing.

Q. Where is your place of business?—A. Pitts Street.

Q. You get some patronage from the city of Boston?—A. I do.

Q. And got it through the Hendricks Club?—A. No.

Q. Ever a member of the Hendricks Club?—A. No.

Q. You know many of the men in the Hendricks Club?—A. Know the members; yes.

Q. Friendly with them?—A. I? No.

Q. Friendly with them?—A. Yes, sir.

Mr. CALLAHAN. Why don't you ask the questions?

Mr. O'CONNELL. Now, Mr. Garvey and myself understand each other. Don't we, Mr. Garvey?

The WITNESS. Very well, indeed.

Q. It is in order to protect the business you get from the city of Boston and blacksmith business that you keep your residence down in the West End, isn't it?—A. No.

Q. Isn't that one reason?—A. No.

Q. You vote there in the West End?—A. I vote at 33 Lynde Street.

Q. Who owns that house?—A. Mr. Sullivan, I believe, runs it.

Q. What Sullivan is that?—A. I couldn't be sure what his first name is—Patrick Sullivan.

Q. You are not married?—A. No.

Q. And did you tell Mr. and Mrs. O'Brien not to give your name to the police officer when he called the first of last April?—A. No; I didn't.

Q. What did you tell them?—A. I didn't tell them anything; not a thing, because I weren't there at the time.

Q. How long did you live at Lynde Street?—A. Lived off and on for the last 15 months.

Q. I'm not asking you that. I asked you how long you lived there last spring?—A. I couldn't tell you exact about it, because I stayed there another occasion.

Q. When did you go into that house prior to April 1st last year?—A. I would not be positive what time I did go there, but I went off and on there the last 15 years.

Q. You said that several times. Give us your best recollection when you went into that house prior to April 1st, 1918.—A. I couldn't tell you exactly, Mr. O'Connell.

Q. Was it a day or two days?—A. I believe it was more than that.

Q. How much more than that?—A. I couldn't tell you. I know I was there some time, probably a week or two.

Q. Exactly, for a week or two, and you came there from Dorchester?—A. Yes; I go back and forth occasionally.

Q. Now, please just answer the question.

Mr. O'CONNELL. Now, Mr. Callahan, please stop interfering with the witness. Please remember you have certain proprieties that you might live up to.

Mr. CALLAHAN. I wish you would observe them.

Mr. O'CONNELL. Mr. Callahan, please be good.

Q. When, after the 1st of April last year, did you leave 33 Lynde Street, Mr. Garvey?—A. Positively, I couldn't tell you. Was there three or four weeks at that time, I judge.

Q. Three or four weeks; a few weeks?—A. I should judge; wouldn't be positive about that, either.

Q. Did you stay at that place, 33 Lynde Street, more than a week?—A. I have already said so.

Q. You were; how much more than a week were you there?—A. I'm not positive about it. I couldn't tell you exactly.

Q. And when you left there you went back to Dorchester?—A. When I go back and forth occasionally.

Q. Pardon me. When you left there you went back to Dorchester?—A. Go back and forth occasionally.

Q. Don't you want to answer my question?—A. Yes.

Q. Well, you did go back to Dorchester, and at that time to the same house you lived in before you went to Lynde Street?—A. Yes, sir.

Q. And you stayed out in Dorchester for some time?—A. Ride back and forth. My business is in the West End, and in order to protect my business I go back and forth; in fact, I got to stay in the West End—

Q. To protect your business?—A. Yes. I do work in the park department, and if the park department calls for me I've got to be on the job day and night, and I stay in the West End a good deal. It is necessary that I stay in the West End.

Q. You rather stay in Dorchester, is that right?

Mr. CALLAHAN. It is necessary, he says.

Mr. O'CONNELL. Now, Mr. Callahan, wait; be good.

Q. You left Mr. O'Brien's house some time before the 1st of April, you don't know just when, whether a few days or not, and then you went to 33 Lynde Street, and then you, at which place you stopped, whether it be a week or a little longer, and then you went back to live again at Mr. O'Brien's house in Dorchester, that's true, isn't it?—A. I stayed on and off the whole 15 years at Mr. O'Brien's.

Q. Please answer the question.

Mr. CALLAHAN. I submit you ought to ask the question.

Q. Is that the situation?—A. No.

Q. Did you leave Mr. O'Brien's house to go to Lynde Street?—A. Yes.

Q. And came back from some house on Lynde Street?—A. Yes, sir.

Q. And came back to Mr. O'Brien's house then?—A. Yes.

Q. Your clothes are out there?—A. No.

Q. You've got the same room?—A. Yes.

Q. Have the room right along?—A. Yes.

Q. And that room is your right?—A. Yes; when I stay there.

Q. And Mr. and Mrs. O'Brien consider that room as your room?—A. I suppose so.

Q. You can go into that room anytime?—A. I pay for it; yes.

Q. You go into it anytime at all, don't you?—A. Yes.

Q. And have for three or four years?—A. I have been off and on.

Q. How long have you been able to go out to your room in O'Brien's house?—A. I know those people; I believe I could go there any time.

Q. Don't be afraid of telling the truth.—A. Do you want me to lie to you?

Q. Would you want to say under oath—

Mr. CALLAHAN. He's telling the truth. The man is under oath.

Mr. O'CONNELL. Please, Mr. Callahan; please, Mr. Callahan——

Q. Now, then, you lived at 33 Lynde Street the year before and voted at that same address?—A. Yes.

Q. And you came in that year a week or so beforehand?—A. Why, no. I stay there occasionally. I stay there now at times.

Q. By "occasionally" what do you mean?—A. I will say when business demands it. There is a time, I shoe the park department horses, and it is necessary if I am called out at night, I have to have a place in that section of the city where I live.

Mr. O'CONNELL. I guess that's all.

Want to ask any questions, Mr. Callahan?

Cross-examination by Mr. CALLAHAN:

Q. Now, let me understand, there are certain times in the year when you stay down to this residence, and that is because of your business?—A. On account of my business.

Q. And that is because you are liable to be called out at any time?—A. Yes.

Q. And then when you are called out, if it is at night, you go right back there?—A. Yes.

Q. In the West End?—A. Yes.

Q. On Lynde Street?—A. Yes.

Mr. BERMAN. How long have you been there?

The WITNESS. I have been off and on in other sections with my friends in the West End. I stayed with Mrs. O'Neal about 10 years; Mrs. Brown about 2 or 3 years; stayed on West Cedar Street with another lady; stayed on Lynde Street; spent the greatest part of my time in the West End since I came to the country.

Mr. BERMAN. And your place of business is there?

The WITNESS. Simply on account of my business.

Mr. CALLAHAN. That's all.

CHARLES L. GARVEY.

FRANCIS J. DOWD, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Francis J. Dowd.

Q. Your wife testified here the other day?—A. Sure.

Q. Her name was——A. Mary E.

Q. You are an employee of the city of Boston?—A. Yes, sir.

Q. What department?—A. Public works.

Q. And you are living out on Josephine——A. 6 Leroy Street, Dorchester.

Q. How long have you been living there?—A. Four years.

Q. And you live there with your family—your wife and children?—A. Yes, sir.

Q. Your young children go to the Marshall School, which is right in the neighborhood?—A. Yes.

Q. Of course the furniture in the house is yours?—A. Yes.

Q. And that is your home?—A. Yes.

Q. Where do you vote?—A. Robinson School.

Q. What street?—A. Robinson Street.

Q. What ward?—A. Ward 18.

Q. Are you the Francis J. Dowd who is registered at 13 Cambridge Street?—A. I don't know.

Q. What do you mean by you don't know? Have you authorized anybody to register you from 13 Cambridge Street?—A. I did not.

Q. Have you voted from any other place except the Robinson School in Dorchester?—A. Any other year?

Q. Yes.—A. Yes.

Q. Did you ever vote from the West End?—A. Yes, sir.

Q. Where?—A. 157 Leverett Street.

Q. Any other place?—A. Chambers Street.

Q. Any other place?—A. That's all.

Q. When was that, Mr. Dowd?—A. Oh, five years ago.

Q. And the last five years you haven't lived in the West End or haven't voted there?—A. No, sir.

Q. How old are you?—A. Forty-two.

Q. What business were you in before you went to work for the city?—A. Any business?

Q. Yes.—A. Schoolboy.

Q. School board?—A. Yes.

Q. Isn't that working for the city?—A. I came from school—schoolboy.

Q. Schoolboy; excuse me, I thought you said school board. You have been working for the city ever since you came from school?—A. Yes, sir; 22 years.

Mr. CALLAHAN. How old are you?

The WITNESS. Forty-two.

Mr. CALLAHAN. I mean your height?

The WITNESS. Five feet seven and a half.

Mr. CALLAHAN. What do you weigh?

The WITNESS. One hundred and fifty-four.

Mr. CALLAHAN. Ever vote in the West End only five years ago?

The WITNESS. No.

Mr. CALLAHAN. That's all.

FRANCIS J. DOWD.

DANIEL P. KELLEY, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your name?—A. Daniel P. Kelley.

Q. Where do you live, Mr. Kelley?—A. 49 La Salle Street.

Q. Where is that?—A. West Roxbury.

Q. Your business?—A. Civil engineer.

Q. And married?—A. Widower.

Q. Any children?—A. Three.

Q. You live with them?—A. Yes.

Q. Where do you vote?—A. Ward 14.

Q. Where is that?—A. Roxbury.

Q. What precinct do you vote at?—A. Precinct 1.

Q. Where did you vote before you voted there —A. Ward 23.

Q. How long did you vote there?—A. Six years.

Q. Before that where did you live?—A. Roxbury.

Q. Where have you voted ever since you started to vote?—A. Roxbury and West Roxbury.

Q. Ever vote in ward 5?—A. No.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. No questions.

JOSEPH DI PESA, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Josepr Di Pesa.

Mr. O'CONNELL. You are off again, Mr. Mancovitz.

Q. Mr. Di Pesa, what is your business?—A. I am in the hotel business.

Q. Hotel Napoli?—A. Yes, sir. Take care of the help.

Q. Are you on the license?—A. No, sir.

Q. Your brother runs the hotel?—A. My brother and my nephew, Alfred.

Q. Your brother is who?—A. Marciano.

Q. Where is your family?—A. I have no family. I'm single, bachelor.

Q. Single bachelor?—A. Yes; times are very hard.

Q. Do you know Mrs. Scotti?—A. Yes, sir.

Q. Where does she live?—A. She lives at present 1875 Commonwealth Avenue.

Q. Where did you live before you went to the Napoli?—A. Hotel Italy, in North Square.

Q. Before that?—A. That was about 20 or 25 years ago.

Q. Now you are at the Napoli?—A. Yes, sir; 15 years now.

Q. People don't stay at the Napoli, do they, unless they have to?—A. Quite a few stay there.

Q. Only when they get pushed for room?—A. Well, some steady, too.

Q. You don't stay there steady?—A. I'm single.

Q. I know, but where else do you stay?—A. Nowhere else.

Q. And that is on account of your brother being interested in the license?—A. My brother is there, too, all the time.

Q. I am asking you about your brother being interested in the license?—A. He is interested, yes.

Q. Your brother's family is out on Commonwealth Avenue?—A. Yes.

Q. 1875 Commonwealth Avenue?—A. Yes.

Q. And that is where his wife and daughter are?—A. Yes.

Q. He wasn't separated from his wife at all?—A. No, sir.

Q. Their relations are friendly, and they are living as man and wife, ordinarily?—A. Yes.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. CALLAHAN:

Q. How old are you?—A. Over 50. Now it's up to you to know. I said over 50.

Q. You never voted anywhere else but in this district?—A. Yes, sir. I used to vote in ward 6, the one that is now ward 5.

Mr. O'CONNELL. You know Dr. Fitzgerald?

The WITNESS. Dr. Fitzgerald?

By Mr. O'CONNELL:

Q. Yes, John F. Fitzgerald?—A. By name, but never acquainted with him.

Q. I suppose you know John I. Fitzgerald, don't you?—In the paper, not by name.

Q. Do you know he tried to put through a change in the true name law yesterday?—A. I'm not interested in politics.

Mr. O'CONNELL. That's all.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

I hereby certify that the foregoing in this volume, containing about 51 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

Boston, Mass., May 5, 1919.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *Monday, March 3, 1919—10.30 a. m.*

Hearing of Tague *v.* Fitzgerald resumed at the office of the election commissioners of the city of Boston, before Abraham C. Berman, esq., and David Mancovitz, esq., notaries public.

Appearances: Joseph F. O'Connell, esq., for the petitioner; John P. Feeney, esq., and Timothy F. Callahan, esq., for the respondent.

Mr. BERMAN. The hearing will now be resumed at the office of the election commissioners of the city of Boston.

Mr. O'CONNELL. Please bring primary precinct for wards 1, 2, 3, and 4.

Mr. BURLIN. What are the records?

Mr. O'CONNELL. We want——

Mr. BURLIN. We think we have got everything here you want. What do you want now?

Mr. O'CONNELL. We want the primary ballots of wards 1, 2, 3, and 4.

Mr. CALLAHAN. You have been all through those ballots, haven't you?

Mr. O'CONNELL. You haven't brought the ballots up here?

Mr. BURLIN. No; because you didn't ask.

Mr. BROGNA. The request was for challenges and clerks' reports.

Mr. BERMAN. Why don't you get through with what you have got up here first if you can, Mr. O'Connell, and then get the other up here?

Mr. O'CONNELL. I'd rather have the records run along in order than have this jumping about.

Mr. CALLAHAN. What is your purpose? Do you mean you are going to open up the ballot boxes when they have all been sealed?

Mr. O'CONNELL. Going to open up the ballot boxes of the primary that have not been touched yet. Then we are going to introduce the ballot boxes of ward 5 with challenged votes. We went through them the other day simply to bring forth the exhibits already marked or found and have remarked them for this investigation. Those challenged votes down there have all got to be disclosed.

Mr. CALLAHAN. I strongly object to the opening of these ballot boxes again. The ballot boxes were opened for the examination of the ballots, and they have been before the hearing, and it was your duty at that time to examine them as carefully as you could, and I submit you have no right at this time to go over those ballots again.

Mr. O'CONNELL. You don't have to remind me, Mr. Callahan, of what we went through. We pursued a course last Friday in order to make it convenient for everybody concerned, in order to bring forth those ballots which have been considered by the board——

Mr. CALLAHAN. Do you mean that you want to go through every ballot in ward 5?

Mr. BERMAN. Isn't there some record of the wardens, or clerks of the election booths, which show the number of ballots that were challenged?

Mr. O'CONNELL. That might be so. Let's try that, if you wish.

Mr. CALLAHAN. I suggest that it is a penal offense for anybody, even the ballot board, to disclose a challenged vote. I don't believe this investigating committee would have the right to compel these commissioners to show those challenged votes. It is clearly a violation of the law. It is a penal offense.

Mr. BERMAN. I know, Mr. Callahan, but this investigation is being conducted for the benefit of a congressional committee to hear this case in Congress. I don't believe that congressional committee is bound by any regulations or rule of law.

Mr. CALLAHAN. Do you mean to say that the congressional committee would order the election commissioners to commit a criminal offense?

Mr. BERMAN. A king can do no wrong. Congress being king, therefore is the judge of its own Members, therefore can commit no crime.

Mr. CALLAHAN. You say a king can do no wrong. I don't suppose you pose as king?

Mr. BERMAN. I am calling attention to the congressional committee.

Mr. CALLAHAN. You can't call this commission in to commit a criminal offense. If the committee, at the proper time, sees fit to summons in those ballots, they may have that right, but this commission, I insist, has no right, and Mr. O'Connell knows that perfectly well.

Mr. O'CONNELL. If you are quoting Mr. O'Connell, I don't agree with you.

Mr. CALLAHAN. He has the right to summons them to Washington, but now you are asking these commissioners to commit an offense for which there is a penalty.

Mr. BERMAN. I have no doubt the members know the law in regard to challenged votes.

(Colloquy between Notary BERMAN and Mr. CALLAHAN:)

Mr. BERMAN. Now, gentlemen, perhaps the suggestion I made a moment ago, that we get the clerks' records of the precincts, might save the trouble of bringing those ballots up.

Mr. BURLIN. You want wards 1, 2, 3, and 4, Mr. O'Connell, ballots cast?

Mr. O'CONNELL. Yes; ballots cast.

Mr. BURLIN. And on election what?

Mr. O'CONNELL. Ward 5.

Mr. BURLIN. Ward 5 election.

Mr. CALLAHAN. May I ask why you are going to examine the ballots of wards 1, 2, 3, and 4 of the primary?

Mr. O'CONNELL. To offer evidence for the exhibits.

Mr. CALLAHAN. What evidence?

Mr. O'CONNELL. Evidence disclosed.

Mr. CALLAHAN. There are no allegations, as I understand it, in your bill of specifications that has any reference to ballots of wards 1, 2, 3, and 4 of the primaries.

Mr. HARRINGTON. Of course, it is; it is in the whole recount was conducted in an improper and illegal manner.

Mr. CALLAHAN. Will you show me any reference to wards 1, 2, 3, and 4? Don't you believe a little courtesy should be extended to me, when I am trying to conduct myself in a gentlemanly manner?

Mr. O'CONNELL. You are getting it.

Mr. CALLAHAN. From whom?

Mr. O'CONNELL. You ask me your question and I will give you my answer.

Mr. CALLAHAN. I asked you to point out in your bill of specifications anything that refers to wards 1, 2, 3, and 4, primaries?

Mr. HARRINGTON. It's in there.

Mr. BERMAN. Is that statement in the allegations?

Mr. CALLAHAN. I am asking you to show it to me now.

Mr. O'CONNELL. You have been told about it.

(Hearing suspended while a copy of the allegations is sent for.)

(Colloquy.)

Mr. BERMAN. What is the first precinct you want, Mr. O'Connell?

Mr. O'CONNELL. Give us precinct 1 of ward 1, primary.

Mr. BROGNA. Is this primary or election?

Mr. O'CONNELL. Primary.

Mr. CALLAHAN. Now, Mr. O'Connell, I want to ask for the purpose of the record, what is your purpose in opening these ballot boxes in wards 1, 2, 3, and 4 of the primary?

Mr. O'CONNELL. To prove our case.

Mr. CALLAHAN. More specifically, please.

Mr. O'CONNELL. To show the votes that were cast at the primary to elect Mr. Tague.

Mr. CALLAHAN. Precincts 1, 2, 3, and 4?

Mr. O'CONNELL. Wards 1, 2, 3, and 4.

Mr. CALLAHAN. Wards 1, 2, 3, and 4. There is no allegation of fraud in wards 1——

Mr. O'CONNELL. Oh, yes.

Mr. CALLAHAN. In your allegations here? Show that to me, please.

Mr. O'CONNELL. You read them through and you will see them.

Mr. CALLAHAN. Well, I think you ought to disclose, for the purpose of the record; I submit it isn't there.

Mr. BERMAN. "At the said primary you were fraudulently credited with votes which did not belong to you and I was fraudulently denied votes which should have been counted for me."

Mr. O'CONNELL. That's clear.

Mr. CALLAHAN. And you mean there, by the recount, don't you?

Mr. O'CONNELL. Sure, as to what was disclosed by the recount, and what went on at the recount.

Mr. CALLAHAN. I am dealing with very wily and very subtle gentlemen and I want to be sure.

Mr. O'CONNELL. Do you mean your client, now?

Mr. CALLAHAN. No; I mean you.

Mr. O'CONNELL. That's the first time any man ever said that of me. Every man knows they can read me as they run. I carry no guile.

Mr. BERMAN. No guns, did you say?

Mr. O'CONNELL. No guns, either. If I can't win with my fists, I don't want to fight.

Mr. CALLAHAN. I want to ask if your purpose is to have a recount of the ballots?

Mr. O'CONNELL. I certainly shall ask the commissioners to recount them.

Mr. CALLAHAN. I wish you would answer my question. Are you going to have a recount of the ballots in these wards?

Mr. O'CONNELL. Of course, I'm not, because I can't. If you will agree with me to a recount of these ballots, yes.

Mr. CALLAHAN. I am asking you if you intend to have a recount?

Mr. O'CONNELL. If you will permit me to have a recount of these ballots I will have one with you.

Mr. CALLAHAN. You haven't answered my question. I asked you if it was your purpose now to recount these ballots now, four wards?

Mr. O'CONNELL. It is my purpose to have these ballots recounted at the proper time.

Mr. CALLAHAN. What do you consider the proper time?

Mr. O'CONNELL. When the congressional committee says so.

Mr. CALLAHAN. I submit this is the proper time.

Mr. HARRINGTON. You don't want to waste time, Mr. Callahan.

Mr. O'CONNELL. I will tell you this, if you will permit us to recount these ballots now, or go into an agreement with us, if you will recount them with us, I will start immediately to ask for a recount.

Mr. CALLAHAN. You know these ballots have been recounted. The board has no authority to go into it again.

Mr. O'CONNELL. I'm not talking about any board. I'm talking about you and myself. You and I have a right to agree to a recount of these ballots.

Mr. CALLAHAN. I don't agree with you.

Mr. HARRINGTON. It has been so ruled by Congress.

Mr. CALLAHAN. I suppose if we agree to waive, we can waive anything.

Mr. BERMAN. Isn't the question now in reference to certain votes in certain wards?

Mr. CALLAHAN. That's just what I am trying to find out.

Mr. BERMAN. Mr. O'Connell, isn't your purpose to take out certain votes cast in the certain precincts in the wards, and have those votes marked, or identified, so that Congress may later see them?

Mr. O'CONNELL. To do exactly what we did last week.

Mr. CALLAHAN. If that's your purpose, I wish you would specify what precincts.

Mr. O'CONNELL. They are in every precinct and every ward. Now, why do you raise this controversy? It was arranged at the time, you weren't present, and I don't know but that you were, it was understood and we reserved all these wards, after we got through election day.

Mr. HARRINGTON. The statement was made to the presiding officers in the presence of Mr. Fitzgerald and Mr. Tague. I don't know whether you were there or not. We were coming back to take the votes out after the primaries.

Mr. CALLAHAN. On election day, exactly; that's the understanding I had.

Mr. HARRINGTON. That was the first day——

Mr. BERMAN. Gentlemen, you are eating up a lot of time here.

Mr. O'CONNELL. Will you ask Mr. Burlen to open the ballots?

Mr. CALLAHAN. Here are the allegations.

Mr. BERMAN. Read them.

Mr. CALLAHAN. "Ballot boxes were illegally used." Now, here are specific allegations. "Many of those who were unable to vote or did not vote in person were fraudulently voted on." That can't be shown by ballots. "(d) Several hundred votes were fraudulently cast for you in wards 5 and 6 in Boston by voters who lived outside the district and who had no right to vote in said wards 5 and 6."

Now, I am proceeding in a very orderly way.

Mr. O'CONNELL. So you think.

Mr. CALLAHAN. I know I am.

Mr. O'CONNELL. You are consuming a lot of time.

Mr. CALLAHAN. I have a right when I am making a reasonable objection to consume lots of time. I am just making a valid objection; I am not doing it to consume time. "Ballots were procured for use in ward 5 in violation of law, and in other details"—that's in ward 5—"the said primary was illegal and fraudulently conducted in defiance of State and Federal laws."

Those are the four specific allegations, and I submit, Mr. Notary, there is nothing in those allegations that relates in the remotest way to wards 1, 2, 3, and 4.

Mr. BERMAN. I think Mr. O'Connell has the right to——

Mr. CALLAHAN. That involves a recount.

Mr. BERMAN. I don't know what it involves. He has not started his case. You are injecting something that has not occurred.

Mr. O'CONNELL. I want to say something right here and now, Mr. Notary. I want to enter and register a protest against the tactics and against the practices of the attorneys for Mr. Fitzgerald and the manner in which they are obstructing this recount, this proceeding. We have spent a lot of time here now, and this is all for the purpose, to my mind, to encumber the record, to confuse the committee, and take up the time, and to make it impossible for us to complete this hearing within the time allowed. It is very evident this is the whole purpose. His last objection has been read into the record a half a dozen times, and more than a hundred times he has made speeches, so they shall be read with reprobation, when it comes to the committee and when they come to consider. He has been standing on technicalities, and objections have been made ever since the start of this hearing. This is a matter of taking depositions; speeches should not be injected into these depositions, and long statements should not be injected into these depositions. We are trying this case for Mr. Tague, who is fighting this case, and I think we should be met at least with fair treatment, and all these subterfuges of your politicians will have a tendency to confuse the committee.

Mr. CALLAHAN. Mr. Notary, anybody on the congressional committee or the Committee on Elections ought to have an opportunity to come here and see the difference between my attitude and that of Mr. O'Connell, and would know perfectly well that I am trying to conduct it in a decent and orderly fashion. I am not trying in a blustering way to proceed unnaturally; I think we are trying it decently, and, as a matter of fact, Mr. Notary, I want to proceed decently and orderly, and I am only asking that one thing. I would like to have him state specifically, and only ask that the statute under which this committee is to examine and reject this evidence shall be carried out literally. When he says we obstruct him he knows perfectly well if he has not got time that he has wasted a whole lot of time, and that is his own individual fault; nobody else he can blame; and I submit in all fairness and as quietly and decently as I can I would like to know the specific purpose for opening these ballots.

Mr. O'CONNELL. I have already told you the specific purpose. It was to prepare evidence for the congressional committee.

Mr. BERMAN. I think Mr. O'Connell has the right to proceed in his own way, and if you object to his proceeding in his own way, Mr. Callahan, your objection will be noted.

Mr. CALLAHAN. I ask that my objection be noted.

Mr. BERMAN. Mr. O'Connell, you may proceed.

Mr. O'CONNELL. I would like to call your attention to what has happened. There will be many pages of typewriting, and it will be necessary—Mr. Tague is a poor man—every one of those pages has got to be paid for and the stenographer's time has got to be paid for, and I think it is outrageous to impose upon Mr. Tague the further burden of having to pay for this unnecessary record.

Mr. CALLAHAN. I would like to say at the proper time that the remarks that I made and were read into the record, that my remarks be not stricken out. I will gladly pay for my remarks and you can pay for yours if you want to show such consideration for Mr. Tague; I will pay Mr. Tague for my remarks so far as it goes to my remarks.

Mr. BERMAN. Congress is not interested in this.

Mr. BURLIN. Mr. Notary, do you authorize me to open the ballots cast at the September 30 primaries for congressman in ward 1, precinct 1, September 24?

Mr. CALLAHAN. Do I understand, Mr. Commissioner, that the boxes have not been opened since the recount?

Mr. BURLIN. This box has not been opened since September 30, 1918.

Mr. CALLAHAN. Put it into the record what it says on the seal.

Mr. O'CONNELL. I am examining this man; please let me put that.

Mr. BERMAN. Mr. O'Connell should have a chance to proceed.

Mr. BROGNA. I think the notary should have called attention to the condition of that box.

Mr. BURLIN. I asked the notary to authorize me to open the box in ward 1 precinct 1.

Mr. BERMAN. That box is sealed?

Mr. BURLIN. This says, "This certifies it was opened September 30, for the purpose of recounting the votes."

Mr. BERMAN. I think you might delegate that to one of your assistants.

Mr. BURLIN. Thank you very much; Mr. Farnum come here.

(Mr. Farnum, an employee in the office of the election board of the city of Boston takes charge of opening the boxes.)

Mr. BERMAN. Mr. Farnum, will you call attention to the seals on the manila envelope? Is that a manila envelope?

Mr. FARNUM. That's a canvas envelope, we call it.

Mr. O'CONNELL. The seals?

Mr. FARNUM. Intact.

Mr. O'CONNELL. Will you please open that.

Mr. BERMAN. Mr. O'Connell, the envelope is open.

Mr. O'CONNELL. Pick out those—will you open the first block and see what ballots are in there.

Now, for the purpose of expediting this, do you want to have Mr. Farnum look in there and see if any of them are segregated in the exhibits?

Mr. CALLAHAN. I want to find out what you want to do. That's what I have been trying to find out for the last 15 minutes.

Mr. O'CONNELL. What block is that you have just looked at?

Mr. FARNUM. Block 1.

Mr. O'CONNELL. You don't find any ballot marked as an exhibit?

Mr. FARNUM. No, sir.

Mr. BERMAN. Or any ballot marked as protested?

Mr. FARNUM. No, sir.

Mr. BERMAN. These are primary ballots?

Mr. FARNUM. These are primary ballots.

Mr. O'CONNELL. Would that be marked on that other side?

Mr. BURLIN, let me ask you this, you were present at the recount of the primary?

Mr. BURLIN. Yes, sir.

(Messrs. M. W. Burlin, Farnum, Monahan, and McLaughlin, the last two attaches of the office of the election board, were sworn at this time by the notary, Berman.)

Mr. O'CONNELL. Were not these ballots that were unsatisfactory at that time marked as exhibits?

Mr. BURLIN. Some were marked. I can't say any in this precinct were.

Mr. O'CONNELL. Wasn't every ballot marked?

Mr. BURLIN. Every ballot that was protested.

Mr. O'CONNELL. And if there was a protested one in ward 1, precinct 1, block 1, it was marked as an exhibit?

Mr. BURLIN. I think it was; yes.

Mr. O'CONNELL. If it is not there, what's the explanation?

Mr. BURLIN. Wasn't marked, wasn't protested.

Mr. O'CONNELL. Certainly there was a protest about one ballot.

Mr. BERMAN. What was the stenographic report of that contest?

Mr. O'CONNELL. I've got it right here.

Mr. BROGNA. May I suggest your honor see if there are 50 there?

Mr. BERMAN. Let somebody else do that.

Mr. CALLAHAN. I don't suppose you can let somebody else do that. Here's a witness on the stand.

(Ballots counted by Mr. Farnum.)

Mr. O'CONNELL. Only 48 ballots in that block, which says the number of ballots contained in it is 50. Is that right?

Mr. FARNUM. I find two marked as an exhibit.

Mr. O'CONNELL. I introduce Exhibit 1, which was counted for Fitzgerald.

Now I introduce Exhibit 2, which was counted for Fitzgerald. Exhibit 2 showing that the Tague——

Mr. CALLAHAN. Wait, wait; I object to that.

Mr. O'CONNELL. I am going to describe each exhibit as I put them in, in the order they may be in.

Mr. CALLAHAN. I submit you can't describe them. If they are going to be described, they will be described by the witness.

Mr. BERMAN. I think counsel has a right to make comments on exhibits.

Mr. O'CONNELL. I introduce this ballot, showing it should be counted for Mr. Tague instead of Mr. Fitzgerald.

Mr. CALLAHAN. Wait, wait. Anything like that will have to be given through the witness. It is evidence we are after.

Mr. O'CONNELL. I am going to state what I am going to show, Mr. Callahan. Don't interrupt me until I get through. I am offering Exhibit 2 to show that this ballot should have been counted for Peter F. Tague instead of John F. Fitzgerald, because an obliteration has been made against the name of Mr. Tague.

Mr. CALLAHAN. Will you note my objection?

Mr. BERMAN. We note Mr. Callahan's objection.

Mr. O'CONNELL. I am offering Exhibit 1 because there is no cross against the name of John F. Fitzgerald. There is a line goes through into the name of Mr. Tague, and it should not be counted for either.

Mr. CALLAHAN. I submit that is argument.

Mr. O'CONNELL. I am stating what I am showing.

Mr. CALLAHAN. At the end of each block, if Mr. O'Connell insists on that, I ask the right to question the witness.

Mr. O'CONNELL. Please put those ballots back—not out of my sight.

Mr. CALLAHAN. I think they are safer with me than with you.

Mr. O'CONNELL. I will introduce my case when you will let me proceed.

Mr. CALLAHAN. I submit, sir, before these ballots are put away I should have these ballots described by this man as witness on the stand.

Mr. BERMAN. You may have access to these ballots when you put your side of the case in.

Mr. CALLAHAN. Haven't I a right to cross-examine?

Mr. BERMAN. Yes.

Mr. CALLAHAN. Do I understand you are going to close up these boxes and I have got to open them up again?

Mr. BERMAN. Do as you please.

Mr. CALLAHAN. You deny me the right to cross-examine this witness?

Mr. BERMAN. You may have the right to put in your case the way you want to, but he is now putting in his exhibits.

Mr. CALLAHAN. He is putting in exhibits, but he has no right to make comments. If he wants to describe what is on that ballot——

Mr. O'CONNELL. I am offering these exhibits, and I am attempting to identify them, so that the committee may understand what they are. Now, then——

Mr. CALLAHAN. If identifying them is describing them——

Mr. O'CONNELL. Give us the next envelope.

Mr. CALLAHAN. Please note my objection to that, Mr. Notary.

Mr. BERMAN. Note Mr. Callahan's objection.

Mr. CALLAHAN. I won't agree that these should be kept on top. Put them in their respective lots.

Mr. FARNUM. This is block 2.

Mr. O'CONNELL. I offer Exhibit No. 10, being a ballot of war 1, precinct 1, block 2, as having been counted for Fitzgerald when it should not have been, because of a large cross outside the square.

Mr. CALLAHAN. I object to Mr. O'Connell's comment on the ballot.

Mr. BERMAN. Note Mr. Callahan's objection.

Mr. FARNUM. I don't see any on the outside of this. What's your pleasure?

Mr. O'CONNELL. Go through them, I suppose. Look through those others and see what is there.

Mr. CALLAHAN. I don't think the blocks ought to be mixed up.

Mr. O'CONNELL. I've got you mixed up.

(Colloquy.)

Mr. O'CONNELL. You don't find any in there?

Mr. FARNUM. I don't find any in three. This is block 4, none. Block 5, there appears to be nothing there on the outside; none there. Block 6, none.

Mr. O'CONNELL. I offer in evidence now those ballots that have been marked. What is the next precinct—precinct 2?

Mr. FARNUM. Seals intact. Seals to the canvas envelope intact.

Mr. O'CONNELL. Open it up, will you, please?

Mr. FARNUM. Block 1, Exhibit 20. Block 2 now.

Mr. O'CONNELL. You don't find any Exhibit 19 there?

Mr. FARNUM. You haven't got anything in block 2, have you?

Mr. O'CONNELL. Block 2, that's ward 1, is it?

Mr. FARNUM. Yes; 1.

Mr. O'CONNELL. No exhibits in block 2.

Mr. FARNUM. Block 3.

Mr. O'CONNELL. No exhibits in block 3.

Mr. FARNUM. Block 4, nothing.

Mr. O'CONNELL. You find no exhibits in that block, Mr. Farnum?

Mr. FARNUM. No. Block 5, 2, Exhibit 72 and Exhibit 73.

Mr. FARNUM. Precinct 3, seals intact. This envelope [indicating] is sealed. (At this time Mr. Mike Monahan helps out in the counting.)

Mr. FARNUM. There is nothing in that. That's block 1.

Mr. O'CONNELL. Exhibit 83, which was not counted for Mr. Tague, which we will claim should have been counted for Mr. Tague, because the cross was right under his name.

Mr. BROGNA. Please note our objection to comment of counsel.

Mr. BERMAN. Yes; a general objection.

Mr. O'CONNELL. Exhibit 81, of which the cross was against the name of Tague and was not counted, although it ran below.

Mr. BROGNA. Again note our objection to comment of counsel.

Mr. FARNUM. Nothing in 3. Ward 1, precinct 4, seals intact. Canvas envelope is sealed.

Notary MANCOVITZ. Nothing found in block 5?

Mr. FARNUM. Nothing. Precinct 4, envelope empty.

Mr. BROGNA. None in block 2?

Mr. MONAHAN. None in block 2.

Mr. O'CONNELL. You find no exhibit in block No. 1, precinct 4, ward 1?

Mr. FARNUM. No. I find nothing in block 3.

Mr. O'CONNELL. You don't find Exhibit 91, ward 1, precinct 4? Your answer was "no" to that, was it?

Mr. FARNUM. No.

Mr. CALLAHAN. I don't suppose that can be an exhibit until put in there.

Mr. O'CONNELL. I ask, do you find any ballot marked "Exhibit 91," Mr. Farnum, ward 1, precinct 4?

Mr. FARNUM. No, sir. Seals, ward 1, precinct 5. Envelope sealed. Block 1, nothing; 2, nothing; block 3, nothing; 4, nothing. Precinct 6, all sealed. Canvas envelope all sealed. Nothing in block 1, precinct 6. Block 3 now. Nothing in block 3. Nothing in block 2. Ward 1, precinct 7, sealed. Canvas envelope sealed. Block 1——

Mr. O'CONNELL. I offer Exhibit 103, the cross with the junction, the junction of the cross below the line, should have been counted for Mr. Tague.

Mr. BROGNA. Note my objection to comment of counsel.

Mr. O'CONNELL. 102, the cross also is below the line, should have also counted for Mr. Tague.

Mr. BROGNA. Note my objection to comment of counsel.

Mr. O'CONNELL. The same is true of 101.

Mr. BROGNA. Note my objection to comment of counsel.

Notary MANCOVITZ. What block is that?

Mr. FARNUM. Block 1.

Notary MANCOVITZ. Precinct 6?

Mr. FARNUM. Seven. Nothing in 3. Precinct 8 seals intact. Envelope sealed. Nothing in 1 and 2. Here's 108 for Tague; do you say you don't want it? It was in block 1.

Mr. O'CONNELL. No.

Mr. MONAHAN. Nothing in block 2.

Mr. FARNUM. Block 3 nothing.

Mr. BERMAN. It is understood that the ballots and papers and exhibits that have been produced here by the election commissioners this morning are permitted to remain in this room, under the care of a police officer, during the noon recess, Officer No. 262, who is Mr. Doyle, shortly to be relieved by officer named Carroll.

(Noon recess until 2 o'clock.)

FEDERAL BUILDING,

Boston, March 5, 1919—10.25 A. M.

Mr. O'CONNELL. Mr. Notary, please call the list of witnesses for to-day.

Mr. BERMAN. The hearing will be resumed. All those witnesses who are present whose names are called will please answer present.

William H. Hart (a).
Joseph F. Howard (a).
Alfred R. Rudd (a).
Michael J. Bonner (a).
Martin A. O'Hara (a).
James H. Crinin (a).
Stephen J. Casey (a).
Herbert W. Boylan (a).
Mathias H. Casey (a).
Robert L. Wiseman (a).
Bernard J. Fitzgerald (a).
Walter H. Lockman (a).
Thomas F. Coffey (a).
William A. Farrell (a).
Dominick J. Harkins (p).
Daniel J. Harkins (p).
John A. Reilly (a).
Leonard Baer (a).
Thomas J. Murphy (a).
Harold M. Whaley (a).
Thomas Walsh (a).
Louis Locke (a).
William H. Kelly (a).
Morris Goldberg (a).
Isaac Gordon (a).

George Poggi (he testified yesterday).
William H. Hennesy (a).
Charles K. Di Fatta (a).
George H. Cowan (a).
William Kellfoye (a).
John W. Reilly (a).
Thomas S. Sullivan (a).
Austin F. Fitzgerald (p).
Edward A. Skelly (a).
Arthur J. Lee (a).
Frank J. Rasley (a).
Joseph J. Vincent (a).
Edward S. Humphreys (a).
Robert C. Levenson (p).
Henry A. Burke (a).
Samuel A. Thomas (p).
William S. Whaley (p).
Joseph Reilly (a).
Moses Caplan (a).
Samuel Birnig (a).
Dennis F. McCarthy (a).
Joseph Cosgrove (a).
John A. Sullivan (p).
Edward M. Sullivan (a).
Edward A. Skelly (a).

Bernard Sears (on call by telephone).	Charles F. Fitzgerald (a).
Antonia Raneri (a).	Patrick J. Bowen (a).
William J. Murphy (a).	Patrick F. Halleran (a).
Patrick J. Fallon (a).	John F. Lambert (a).
George Fallon (a).	Jeremiah E. Crowley (a).
Frank J. Hennick (a).	Charles L. Smith (a).
Martin F. Lee (a).	Patrick Leonard (a).
Luke D. McDermott (a).	Peter Dukelow (already testified).
James J. McNulty (a).	Henry F. Moran (a).
Sylvester J. Twohy (a).	John McGowan (a).
Walter I. Brown (a).	Timothy W. Corkery (p).
Michael L. Caples (a).	Thomas H. Keenan (testified).
Philip L. Caples (a).	Dennis Reardon (a).
Patrick H. Conley (a).	James I. Green (p).
James J. Cunningham (a).	Thomas J. Giblin (p).
Edward J. McMannus (a).	Richard A. Nagle (a).
John A. McLaughlin (a).	John McGrath (a).
Frank M. Frost (a).	Thomas D. Hallahan (a).
Daniel Connors (p).	Cornelius Driscoll (a).
Peter H. Kane (a).	John J. Scannlan (a).
Augustus O. Corbett (a).	William E. Ryan (a).
George R. Shanklin (p).	Dennis Reardon (a).
John J. Dolan (a).	Frank P. Lesley (a).
Aloysius J. Cregg (a).	Thomas Lawton (p).
Raymond J. Cass (a).	Michael Lafferty (a).
John E. Duffy (a).	William F. Kennedy (a).
Joseph McDonnough (a).	John B. Hennick (a).
Robert Silverman (a).	Thomas F. Riley (a).
Charles T. Cogan (p).	Thomas W. Lucas (testified before).
John G. Walsh (a).	Dennis J. Leary (a).
John R. Murray (a).	Stephen W. Carlin (a).
Michael Duffy (a).	Fred L. Ross (a).
John L. Donovan (a).	George L. Sullivan (a).
David Mancovitz (p).	Park W. Wilde (a).
Edward L. Flynn (a).	Thomas F. Ward (a).
James McCaffrey (a).	Owen Tirrell (a).
John J. Horrigan (a).	Patrick J. Kane (p).
George D. MacNeil (a).	Bartholomew Hegerty (a).
Thomas Linehan (a).	Charles Mayer (a).
John J. Quain (a).	Richard J. Keaney (a).
Edward I. O'Brien (a).	George W. Nash (p).
Leo Spellman (a).	Harry Swartz (a).
Daniel J. Shea (a).	John B. McManus (a).
Daniel J. Sullivan (a).	Ernest Waldron (a).
Patrick J. Sheehan (a).	John W. Morton (a).
John Dick (a).	Thomas Deeley (p).

Mr. BERMAN. Are there any witnesses present whose names have not been called?

Thomas H. Corcoran (p).
Cyrus N. Campbell (p).
John H. Norton (p).

Patrick F. Comer (p).
George W. Hill (p).

Mr. BERMAN. All the witnesses will please raise their right hands.
(Oath administered by the notary.)

Mr. CALLAHAN. At this time I want to call attention to the fact, Mr. Notary, that these witnesses were summoned to another room, on another floor in the building, and were summoned here at 9.30.

Mr. HARRINGTON. I want to say that at 9.30 I was present at room 395 and directed all who were there to come up here and left word with the elevator man to direct all up to this room. We were all here at 25 minutes of 10, and Mr. Callahan was not here until 15.

Mr. O'CONNELL. Make a note that this building is controlled by the United States marshal, and the United States marshal assigned us to that room in the beginning, and then the United States marshal has transferred us to this room, for the accommodation of juries and officials of this building. And we have taken the precaution that everybody who comes to that room is transferred to this room.

Mr. CALLAHAN. I want to say, Mr. Notary, the statute requires them to give us a day's notice of the place in which this hearing is to be held. We have not received that day's notice. We have received a notice, but not for a day.

Mr. O'CONNELL. The hearing is being held in court rooms of the Federal building. At this time I want to call attention, and have it go in the record, to this fact, that out of a list of 138 witnesses summoned for to-day only 21 have shown up. I want to read into the record the list of these absentees and offer, when I get through, the official returns of the United States marshal of the service on these various men. All these men I read off are absentees and are men who vote in the tenth congressional district, and all of them were alleged to be illegally registered in that district:

William H. Hart, United States Hotel.
 Joseph F. Howard, 177 Endicott Street.
 Alfred R. Rudd, 177 Endicott Street.
 Michael J. Bonner, 93 Endicott Street.
 Martin A. O'Hara, 66 Bowdoin Street.
 James H. Cronin, Revere House.
 Stephen J. Casey, Revere House.
 Herbert W. Boylan, Revere House.
 Mathias H. Casey, Revere House.
 Robert L. Wiseman, 54 Howard Street.
 Bernard J. Fitzgerald, 66 Bowdoin Street.
 Walter H. Lockman, 31 Chamber Street.
 Thomas F. Coffey, 38 Wendall Street.
 William A. Farrell, 93 Endicott Street.
 John A. Reilly, 7 Chambers Street.
 Leonhard Baer, Young's Hotel.
 Thomas J. Murphy, Quincy House.
 Thomas Walsh, Hotel Central.
 Louis Locke, N. E. House.
 William H. Kelly, Crawford House.
 Morris Goldberg, 128 Court Street.
 Isaac Gordon, 128 Court Street.
 William H. Hennessy, Rossmore Hotel.
 Charles K. DiFatta, Hotel Lucerne.
 George H. Cowan, Hotel Lucerne.
 William Kellfoye, 14 Chamber Street.
 John W. Reilly, 54 Howard Street.
 Thomas S. Sullivan, 54 Howard Street.
 Edward A. Skelly, Quincy House.
 Arthur J. Lee, 24 Chambers Street.
 Frank J. Rasley, Quincy House.
 Joseph J. Vincent, 367 Chestnut Street.
 Edward S. Humphreys, 367 Cambridge Street.
 Henry A. Burke, Derby House.
 Joseph Reilly, Young's Hotel.
 Moses Caplan, Quincy House.
 Samuel Birnig, Windsor Hotel.
 Dennis F. McCarthy, Hotel Rexford.
 Joseph Cosgrove, Hotel Rexford.
 Edward M. Sullivan, Quincy House.
 Edward A. Skelly, Quincy House.
 Antonio Raneri, Quincy House.
 William J. Murphy, Quincy House.
 Patrick J. Fallon, Hotel Lucerne.
 George Fallon, Hotel Lucerne.
 Frank J. Hennick, Hotel Lucerne.
 Martin F. Lee, Hotel Royal.
 Luke D. McDermott, Lincoln House.
 James J. McNulty, Lincoln House.
 Sylvester J. Twohy, Hotel Bowdoin.
 Walter I. Brown, Hotel Commonwealth.
 Michael L. Caples, Quincy House.
 Philip L. Caples, Quincy House.
 Patrick H. Conley, Quincy House.
 James J. Cunningham, Quincy House.
 Edward J. McMannus, Quincy House.

John A. McLaughlin, Quincy House.
 Frank M. Frost, Quincy House.
 Peter H. Kane, Derby House.
 Augustus O. Corbett, Merrill House.
 John J. Dolan, Hotel Ketterer.
 Aloysius J. Cregg, Revere House.
 John E. Duffy, Hotel Lucerne.
 Joseph McDonough, Windsor Hotel.
 Robert Silverman, Commonwealth Hotel.
 John G. Walsh, Commonwealth Hotel.
 John R. Murray, United States Hotel.
 Michael Duffy, Hotel Bowdoin.
 John L. Donovan, 14 Noanet Street.
 Edward L. Flynn, Hotel Lucerne.
 James McCaffrey, Hotel Lucerne.
 John J. Horrigan, Hotel Lucerne.
 George D. MacNeil, Hotel Lucerne.
 Thomas Lineham, Hotel Lucerne.
 John J. Quain, Hotel Lucerne.
 Edward I. O'Brien, Hotel Lucerne.
 Leo Spellman, Hotel Lucerne.
 Daniel J. Shea, Hotel Lucerne.
 Daniel J. Sullivan, Hotel Lucerne.
 Patrick J. Sheehan, Quincy House.
 Charles V. Fitzgerald, Crawford House.
 Patrick J. Bowen, Crawford House.
 Patrick F. Halleran, Hotel Ketterer.
 John F. Lambert, Crawford House.
 Jeremiah E. Crowley, 19 Causeway Street.
 Charles L. Smith, Hotel Ketterer.
 Patrick Leonard, 19 Causeway Street.
 Henry F. Moran, 19 Causeway Street.
 John McGowen, 19 Causeway Street.
 Dennis Reardon, 88 Calumet Street.
 Richard A. Nagle, 54 Howard Street.
 John McGrath, United States Hotel.
 Thomas D. Hallahan, 54 Howard Street.
 Cornelius Driscoll, 54 Howard Street.
 John J. Scannlan, Revere House.
 William E. Ryan, Revere House.
 Dennis Reardon, Revere House.
 Frank P. Lesley, Revere House.
 Michael J. Lafferty, Revere House.
 William F. Kennedy, Revere House.
 John B. Hennick, Revere House.
 Thomas F. Riley, 128 Court Street.
 Dennis J. Leary, Crawford House.
 Stephen F. Carlin, Hotel Hamilton.
 Fred L. Ross, Rossmore Hotel.
 George L. Sullivan, Crawford House.
 Park B. Wilde, Crawford House.
 Thomas F. Ward, Hotel Lucerne.
 Owen Tirrell, Crawford House.
 Bartholomew Hegerty, Hotel Central.
 Charles Mayer, Hotel Central.
 Richard J. Keaney, Hotel Central.
 Harry Swartz, Hotel Royal.
 John B. McManus, Hotel Central.
 Ernest Waldron, Hotel Central.
 John W. Morton, Hotel Royal.

(On the back of the sheets containing these names is written "March 4, 12 o'clock, noon, I hereby accept service of the within list of witnesses. T. F. Callahan, for John F. Fitzgerald.")

Mr. O'CONNELL. These men are all summoned from the following houses, in which we allege illegal registration took place: Merrill House, Ketterer Hotel, Revere House, Quincy House, Hotel Lucerne, Hotel Central, Crawford House, Derby House, New England House, Hotel Commonwealth, Lincoln House.

Hotel Royal, 19 Causeway Street, and other houses on Causeway Street, Chambers Street, and other streets, and we have summoned the registers from all these houses, and the only one that brought a register has been the New England House; all the others being destroyed, or refusing to answer.

Mr. O'CONNELL. Mr. Pedrick.

At this time I offer the returns of the deputy marshal for service on these men, including yesterday's list, in order that they can be incorporated in the records.

Mr. CALLAHAN. Mr. Notary, may I make an observation, while Mr. O'Connell is at leisure I want to call your attention to the fact that this room is in a remote part of the Federal Building, and difficult for witnesses to find this room, unless directed here properly, and I maintain they haven't been directed here properly.

Mr. BERMAN. Nothing remote about this room. It leads off the corridor, and off the large room we have been holding our hearings in.

Mr. O'CONNELL. It is a part of the court room.

Mr. BERMAN. And easily accessible to all witnesses.

Mr. O'CONNELL. I would like to read into the record the list of witnesses, which have been furnished to Mr. Callahan, and been accepted by him, and that is the same list which I have read off with the additional names.

Mr. CALLAHAN. They are in the record.

Mr. O'CONNELL. I don't think they have been put in, Mr. Callahan. I will offer them at this time, all the lists of witnesses which have been furnished to Mr. Callahan, services of which has been accepted by him.

Mr. BERMAN. Service of the list?

Mr. O'CONNELL. With acceptance of the lists written in.

Mr. CALLAHAN. And the last two days we took the precaution to put on the time of day, because I contend none of those lists was served on us legally.

List of witnesses given to the United States marshal for service in the case of Peter F. Tague *v.* John F. Fitzgerald, for February 25, 1919:

Mrs. George H. Connor, 12 Whiton Street, Dorchester.

Mary Ryan, 11 Paislie Park, Dorchester.

Mrs. Timothy J. McKeon, 38 Woodford Street, Dorchester.

Mrs. Francis J. Dowd, 6 Leroy Street, Dorchester.

Mrs. Harry E. Newton, 646 Morton Street, Dorchester.

Miss Maddox, 8 Erie Street, Dorchester.

Mrs. Gorman, 27 Vincent Street, Dorchester.

John Leonard, 42 Blue Hill Avenue, Dorchester.

Hyman Lebofsky, 80 Intervale Street, Dorchester.

Mrs. Frank Bradford, 24 Jermoe Street, Dorchester.

Mr. Concrec, 95 Geneva Street, Dorchester.

Mrs. Daniel P. Kelly, 49 Lasalle Street, West Roxbury.

Mary E. Crossman, 1088 Bennington Street, East Boston.

Charles T. Rooney, care of Estey & Walsh, Bennington Street, Boston.

Edward I. Kelley, 30 Faxon Street, East Boston.

Mrs. Frank J. Neylon, 48 Monument Street, East Boston.

Patrick F. Comber, 68 Chestnut Street, Boston.

Valentine F. McCormick, Central Post Office, Boston.

Arthur W. Pierce, 43 Lynde Street, Boston.

Mrs. Daniel J. McLaughlin, 169 Crescent Avenue, Revere.

Joshua Harron, 137 Bellingham Avenue, Beachmont.

Mrs. John F. Beatty (Dr. Mary Moore), 1402 Commonwealth Avenue, Allston.

Mrs. Eugene Seleg, 41 Naples Road, Brookline.

Henry J. O'Meara, 121 University Road, Brookline.

Mrs. Joseph Kraft, 2 Summit Avenue, Brookline.

Mrs. Lombard, 19 Essex Street, Cambridge.

Mrs. William F. Ford, 15 Williams Street, Cambridge.

Mrs. Mary F. Fallon, 254 Brookline Street, Cambridge.

Mrs. Frank J. Callahan, 23 Ellsworth Avenue, Cambridge.

Miss McQuade, 6 Taunton Street, Somerville.

Mrs. James Lang, 309 Medford Street, Somerville.

Mrs. E. Gavin, 139 Boston Avenue, Somerville.

Mrs. Frank J. Cole, 14 Cypress Street, Somerville.

Mrs. William A. Leahy, 48 Partridge Avenue, Somerville.

Mrs. Charles Allen, 9 Rockville Street, Roxbury.

Mrs. Bernard H. Kirstein, 14 Devens Street, Roxbury.

Mrs. Feeney, 29 Elm Hill Park, Roxbury.

Mrs. Elizabeth J. Sheridan, 55 Alpine Street, Roxbury.
 Mrs. Winifred Dunn, 15 Shirley Street, Roxbury.
 Mrs. Mary H. Baker, 35 Mount Pleasant Street, Roxbury.
 Catherine Doherty, 17 Harvard Street, Roxbury.
 Raymond Kiley, 12 Tremont Street, Charlestown.
 Julia Doves, 43 Washington Street, Charlestown.
 Miss Corcoran, 14 Auburn Street, Charlestown.
 Mrs. Wagner, mother of Stephen, 137 Rutherford Avenue, Charlestown.
 Mrs. Elizabeth Rogers, 6 Adams Street, Charlestown.
 Mrs. Brimm, 28 Theodore Street, Mattapan.
 Agnes S. Cronin, 38 Hawthorne Avenue, Winthrop.
 Mrs. David P. McCarron, 100 Princeton Street, Medford.
 Mrs. Charles D. Celeste, 77 Princeton Street, Medford.

[On the back of this paper is written in ink: "Feb. 24, 1919. I accept service of the within list of witnesses. T. F. Callahan, for John F. Fitzgerald."]

FEBRUARY 28, 1919.

TIMOTHY F. CALLAHAN, ESQ.,
Attorney for John F. Fitzgerald,
40 Court Street, Boston, Mass.

DEAR SIR: The following is the list of witnesses given to the United States Marshal for service in the case of Peter F. Tague *v.* John F. Fitzgerald, for March 1, 1919:

Thomas F. Riley, 118 Bowdoin Street, 21 Washington Street, Dorchester.
 Frank M. Frost, Quincy House, 30 Magnolia Street, Dorchester.
 Thomas F. Bowes, Quincy House, 57 Mora Street, Dorchester.
 Louis Locke, New England House, 101 F. H. Market.
 Thomas H. Keenan, Hotel Haymarket, 25 Henshaw Street, Brighton.
 John O. Moylan, Rear 14 Causeway, 128 Walnut Street, Revere.
 William J. Bonning, Hotel Lucerne, 15 Claxton Street, Roslindale.
 Edward J. Mulvehill, 31 Lynde Street, 346 Broadway, Cambridge.
 James J. Lavin, Lincoln House, 28 Redmond Street, Jamaica Plain.
 Michael O'Connor, 172 Blackstone Street, 46 Walnut Park, Newton.
 Sylvester De Rosey, Hotel Lucerne, 761 Broadway, Somerville.
 Michael J. Fitzgerald, Police Station 16, 63 Canal Street, Winthrop.
 Moses Krovitz, Hotel Lucerne, 72 Myrtle Street, Boston.
 Michael F. Durrant, 37 Billerica Street, Boston.
 Philip J. Ahearn, 76 Green Street, 130 Myrtle Street, Boston.
 Frank J. Gibbons, 102 Staniford Street, 19 Albemarle Street, Boston.
 Thomas McHugh, 44 Cooper Street, 148 Warren Avenue, Boston.
 Robert C. Smith, Revere House, Boston.
 Peter Dukelow, 19 Causeway Street, 21 Prospect Street, Boston.
 Charles F. Gallagher, Ketterer Hotel, 42 Beach Road, Winthrop.
 Charles M. Hollander, 37 Leverett Street, 84 Fenway Street, Boston.
 Charles Hart, Lincoln House, West End, 23 Irving Street, Boston.
 Henry J. Fowler, Revere House, 125 St. Botolph Street, Boston.
 James E. McGonagle, Merrill House, 93 Binney Street, Roxbury.
 Edward D. O'Dwyer, 382 Hanover Street, 25 Brook Avenue, Roxbury.
 John Lomasney, Hotel Bowdoin, Boston.
 John L. Smith, 19 Causeway Street, Boston.
 James F. Brown, Hotel Lucerne, Boston.
 Philip S. Doherty, Lincoln House, 195 Main Street, Charlestown.
 Neil E. Callahan, 30 Causeway Street, Boston.
 John J. Graham, 153 Princeton Street, East Boston.
 Edward Clarke, Hotel Brewster, Boston.
 Willard E. Gallagher, St. James Hotel, Bay State Road, Boston.
 John R. Murray, United States Hotel courthouse officer, Boston.
 Frank C. Hyde, 115 Brown Street, Brookline.
 Mrs. Ella Whitney, 57 Mora Street, Dorchester.
 Thomas Riley, jr., 21 Wellington Street, Dorchester.

Very truly, yours,

JOSEPH F. O'CONNELL.
Attorney for Peter F. Tague.

[On the back of this list is written in ink: "I accept service of the within list of witnesses. T. F. Callahan for John F. Fitzgerald."]

The list of witnesses for March 5, 1919, has already been written in this record, beginning on page 23 and ending on page 26 of this record. On the back of that list is written in ink, "March 4, 12 o'clock noon. I hereby accept service of the within list of witnesses. T. F. Callahan for John F. Fitzgerald."

Mr. O'CONNELL. At this time I want to make note of the fact that Representative John I. Fitzgerald, concerning whom there has been much testimony, yesterday took his place so he could face each one of the witnesses in this room, so that he could intimidate them, and he has now taken his place in the same manner to-day, and I am making the statement that it is done for the purpose of intimidation, and he has done it to-day. He is not an attorney; not any official connection with this case, other than to carry on this intimidation and coercion that has been apparent from the very beginning of the case.

Q. What is your full name, Mr. Pedrick?

Mr. CALLAHAN. Wait; wait. Please, may I make another observation at this time. I want to make the objection or state for the purpose of the record that Mr. Fitzgerald has a perfect right to be in the room. He is not conducting himself in any disorderly way, and in no way trying to intimidate the witnesses. That's all froth from Mr. O'Connell; nothing more.

THOMAS F. PEDRICK, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your name, Mr. Pedrick?—A. Thomas F. Pedrick.

Q. You are sergeant at arms of the Commonwealth of Massachusetts?—A. Yes, sir.

Q. You have held that office how long, Mr. Pedrick?—A. This is my tenth year.

Q. And as such, in your official capacity as sergeant at arms of the Commonwealth of Massachusetts, did you receive from the ballot law commission lists of witnesses to be summoned, and did you then try to serve summonses on all witnesses to attend before the hearing that was then being held before the ballot law commission for the purpose of inquiring into the primary election of the congressional nominee in the tenth district?—A. Yes.

Q. Have you the summonses, the results of your efforts to find the witnesses?—A. There they are, Mr. O'Connell [showing counsel package].

Q. What are these?—A. Those are the summonses we tried to serve, and the returns on those we did serve, and some there that were served by the State police on the last day or two. Those kept coming.

Q. What are these in the envelopes?—A. Those are some of them that couldn't be served. [Witness looks at package with counsel.]

Mr. BROGNA. Mr. Pedrick, your evidence should be given so that everybody can hear it.

The WITNESS. I say the returns of the officers are on the backs of those letters.

Mr. BROGNA. We are entitled to hear what the witness has to say.

Mr. O'CONNELL. He is trying to do that to help me out. What do you want to be pettifogging that way for?

First, I want to offer, to put in evidence, a letter as follows:

BOSTON, October 22, 1918.

THOMAS F. PEDRICK.

DEAR SIR: As counsel for Henry R. Gray and several others whose names appear on the list of those qualified to vote in ward 5, and who appear on the list of names in your office, being summoned before the ballot law commission, returns on which summonses I have not seen, I respectfully ask that in accordance with the requests, made by the commission, that the returns made by the officers on each name be forwarded to me.

Very truly, yours,

MARTIN M. LOMASNEY.

Q. Was that letter handed to you by Mr. Lomasney?—A. I can't tell you. I took these names that were given to me by the chairman of the ballot law commission and made summonses on them.

Q. This is addressed to you?—A. That was sent to me by Mr. Lomasney, as I understand it.

Mr. BROGNA. It wasn't given to you?

The WITNESS. It was given to me, from, I understand, the ballot law commission.

Mr. O'CONNELL. I offer at this time these papers submitted by the sergeant at arms.

Mr. CALLAHAN. What papers do you mean, Mr. O'Connell?

Mr. O'CONNELL. Being all the official papers in connection with the hearing of this case, and being confined, as I understand, to the summonses given you by the ballot law commission, and with the returns of the officers who served on them?

The WITNESS. Yes, sir.

Mr. BERMAN. Will you have them marked for identification?

Mr. O'CONNELL. I want to have them marked for identification. Well, then, I offer these.

Mr. BERMAN. Those are summonses and papers brought here by the sergeant at arms.

Mr. O'CONNELL. Yes.

Mr. BERMAN. In reference to the hearing before the ballot law commission?

Mr. O'CONNELL. Yes.

Mr. CALLAHAN. To become part of the record?

Mr. O'CONNELL. To become part of the record.

Mr. CALLAHAN. So they will be read into the record?

Mr. O'CONNELL. So they will be read into the record.

Mr. Notary, I ask you to impound those.

Mr. BERMAN. That may be done.

Mr. CALLAHAN. Do you regard those as official documents to be kept entirely in your care, Mr. Pedrick?

The WITNESS. Yes, sir; State property; State documents.

Mr. CALLAHAN. They are State documents?

The WITNESS. Yes, sir.

Mr. BERMAN. It being necessary in the growth of this case to have these papers sent to Washington, have you any objection to leaving them in our custody, so they may be sent to the committee to hear this case, and later returned to you?

The WITNESS. No.

Mr. BERMAN. You have no objection?

The WITNESS. I have not.

Mr. O'CONNELL. Then, we will take care of them.

Mr. CALLAHAN. Did you answer that, Mr. Pedrick?

The WITNESS. I have no objection.

Mr. CALLAHAN. Whose property would you regard that, the property of the department of the sergeant at arms, or the ballot law commission?

The WITNESS. Those summonses were given to me to summons witnesses by the ballot law commission. They are in my custody and belong to the State of Massachusetts.

Mr. CALLAHAN. State of Massachusetts. Now, I suppose, in order that there will be no chance of any of those documents being lost, every precaution ought to be taken, and ought to be certified, and I don't see how official documents can leave the State unless you introduce certified copies of each one of them. You have no right to take official documents, and only on your ability to furnish certified copies.

Mr. O'CONNELL. Do you want to mark those with me?

Mr. CALLAHAN. No; I think that is entirely your job and the sergeant at arms.

Mr. O'CONNELL. All right; I will take care of them. That's all, Mr. Pedrick.

Mr. CALLAHAN. I have no objection to their going into the record, but counsel ought not to do that way.

Mr. O'CONNELL. I am going to give them to the notary.

Mr. BERMAN. Mr. Pedrick having no objection, we will take them.

Cross-examination by Mr. CALLAHAN:

Q. Just one minute, Mr. Pedrick. There are something over four or five hundred papers there, aren't there?—A. I should say there were.

Q. Now, for the purpose of the record, I want to object. Have you any other copies of those?—A. No.

Q. Those are your only copies?—A. Yes.

Q. If those are lost, State documents are lost?—A. So far——

Q. And you have no permanent record of them?—A. I have got a permanent record of them in my office.

Q. Got copies of all these?—A. Yes.

Q. So they may be kept properly and so that they may be accessible and everything introduced at the proper time and not some be sorted out and some be left behind. I suggest counsel have them marked, and marked properly as exhibits, so at the right time they may all be in.

Mr. O'CONNELL. I offered to have you mark them with me.

Mr. CALLAHAN. It isn't my case, Mr. O'Connell.

Mr. BERMAN. The thing to do, gentlemen, at this time is to leave those documents in the charge of Mr. Pedrick, leave the exhibit to go to Washington on call.

Mr. CALLAHAN. Satisfactory.

Mr. BERMAN. Any objection to that?

Mr. O'CONNELL. I have no objection to anything.

Mr. BERMAN. To be called for by me or by the committee.

Mr. O'CONNELL. That is my original suggestion. Glad to see it worked out all right.

By Mr. CALLAHAN:

Q. Now, Mr. Pedrick, in summoning witnesses before the ballot law commission you used your own messengers, did you?—A. Yes, sir.

Q. And then as the meeting progressed, as the hearing progressed, did you also call in the services of the State police?—A. Yes, sir.

Q. And how many State officers were assisting you in summoning witnesses?—A. I think 8, Mr. Callahan, maybe 10; but quite sure it was 8.

Q. You used every facility you had in your own office, and every officer that the State police could allow you, in summoning these witnesses to that hearing, isn't that so?—A. Yes.

Q. Did you or the ballot law commission refuse to summons any witness?—A. Not that I know of.

Q. How many names were given to you at a time, Mr. Pedrick?—A. Why, sometimes 50, sometimes half a dozen, sometimes 100.

Q. Gave you 100 a day?—A. Yes.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. Just one question.

Redirect examination by Mr. O'CONNELL:

Q. Do you remember the fact called to the attention of the ballot law commission that certain lists of names given to them had not been summoned by you?—A. As far as I know, Mr. O'Connell.

Q. No; in reference to the controversy that took place—you remember the controversy in regard to the list of 18 names that was given in and had not been turned over to you?—A. Something to that effect. I don't remember.

Q. You served all the papers that were given to you?—A. I did.

Q. Your attention was called at that time to the fact that no notices were served on certain names, and you said you had not received those names?—A. I couldn't find the names.

Q. At that time Commissioner Vinson acknowledged he had received the names of Mr. Goodwin and didn't know what had become of them?—A. Yes.

Mr. O'CONNELL. That's all.

Recross-examination by Mr. CALLAHAN:

Q. Now, Mr. Pedrick, when they gave you these names to summon witnesses how long a time would they give you to bring the witnesses in, the following day?—A. Sometimes the same day, and sometimes the following day.

Q. So, if they gave you a list of 100 names, they would ask you to bring those witnesses in the same day or the next day?—A. I kept my force of messengers, my clerks, working till 10 and 11 o'clock at night to get them out.

Q. When this hearing was being held the legislature wasn't in session?—A. No.

Q. So that you could give a great deal of time to this particular hearing?—A. The constitutional convention was in session.

Mr. O'CONNELL. No.

Q. Not at that time?—A. October? No, no; they had got through.

Q. We were all members of that. So, as a matter of fact, Mr. Pedrick, you were at most of these hearings of the ballot law commission?—A. Except the time I had a list handed to me, and then I would go to my office.

Q. This hearing was conducted in an orderly fashion?—A. So far as I know.

Q. There wasn't any disorder that you know of?—A. I wasn't there all the time.

Q. You had your messengers in the room and in the corridors?—A. I had them in the room and in the corridors, and some were out serving summonses.

Q. And you had one or two State police in the corridor?—A. Two.

Re-redirect examination by Mr. O'CONNELL:

Q. They were in the corridor to keep peace there, weren't they?—A. Yes.

Q. And you were called upon by the ballot commission to stop the disturbance that was taking place there?

Mr. CALLAHAN. Wait; wait; let him tell why he was called.

Q. Isn't that a fact, Mr. Pedrick?

Mr. O'CONNELL. Please, Mr. Callahan, please.

A. I beg your pardon.

Q. Isn't it true you were called on by the commission to have a force of police there, there was so much disturbance in and around the room?—A. I can't say as to that, Mr. O'Connell. I knew the State police had been up there.

Q. You recall the fact a man was assaulted there?—A. I was in my office making out summonses at that time.

Q. I mean as the result of the assault, you were told by the commission to put officers on guard?—A. They were there before that time.

Q. Were they there during the assault?

Mr. BROGNA. He says he doesn't know.

A. I don't know.

Mr. O'CONNELL. You are going to butt in now?

Mr. BROGNA. I suppose I have a right to.

Mr. O'CONNELL. You're afraid.

Mr. BROGNA. Afraid of nothing.

Q. There was a big crowd in the hall, wasn't there?—A. Most of the time.

Q. And the crowd was trying to get in most of the time?—A. Yes, sir.

Q. And that crowd was trying to get in the door?—A. Yes, sir.

Q. And whether it strung out in the corridor there?—A. Yes, sir.

Q. And your officers were kept inside the room and outside the room?—A. Messengers.

Q. They were in officers' clothes or in the uniform of officers?—A. Certainly.

Q. Commissioned by you to see that they kept peace?—A. I always had them when the crowd was around there.

Mr. CALLAHAN. That's your job, to keep peace?

Q. You instructed them to see that order should be kept?—A. Certainly.

Mr. O'CONNELL. That's all.

Re-recross-examination by Mr. CALLAHAN:

Q. Now, Mr. Pedrick, isn't it true you were instructed by the commission to have messengers and police there to keep the people from crowding in, because of the influenza epidemic at the time?—A. Partly that.

Q. Weren't you instructed by the commission on that score?—A. I would not say as to that, Mr. Callahan; but I took some precautions, myself.

Q. At one time, do you recall the commission ordering every person out of the room, except counsel and witnesses?—A. I think so.

Q. On account of influenza?—A. I think so.

Mr. O'CONNELL. But the room was crowded all the time?

The WITNESS. Most all the time.

Mr. BERMAN. Now, Mr. Pedrick, so there will be no misunderstanding about these summonses you brought here this morning, do you want to keep them where we can get at them any time it is necessary?

The WITNESS. Yes; I will lock them up.

Mr. O'CONNELL. I requested you to bring them, and you are willing to leave them with Mr. Pedrick to be forwarded to the congressional committee subject to your orders.

The WITNESS. Yes.

THOMAS F. PEDICK.

THOMAS J. MURPHY, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Thomas J. Murphy.

Q. Where do you live?—A. Quincy House, Brattle Street, Boston.

Q. How long have you lived at the Quincy House?—A. Lived there 10 years.

Q. Have you got a home elsewhere?—A. No, sir.

Q. Ever lived in Dorchester?—A. I did.

- Q. How long ago?—A. Ten years ago.
- Q. When did you give up your home there?—A. Ten years ago.
- Q. Are you a married man?—A. I am.
- Q. Got a family?—A. I have.
- Q. One son?—A. One boy and wife.
- Q. Where do your wife and son live?—A. Quincy House.
- Q. Have you brought the records here, Mr. Murphy, showing the registration for 1918?—A. I wasn't asked to.
- Q. It was understood by Mr. McCarthy that he was to notify you of the fact.
- Mr. CALLAHAN. That's not so. He said there were no such records.
- Mr. O'CONNELL. He said he would bring the records.
- Mr. CALLAHAN. The mere fact you said he did doesn't prove anything.
- Q. Are there any records of the register of the people in the hotel on the 1st of April, 1918?—A. No, sir.
- Q. Do you know where they are?—A. We have not them.
- Q. Know where they are?—A. Been destroyed.
- Q. When were they destroyed?—A. I couldn't say definitely.
- Q. Are the records prior to April 1, 1918, destroyed?—A. Yes.
- Q. So there are no records showing who was living in that hotel on April 1, or prior to that date?—A. Not to my knowledge.
- Q. Do you know who gave the order to destroy them?—A. Why, yes, sir.
- Q. Who was it?—A. Mr. McCarthy.
- Q. Which one?—A. J. J. McCarthy.
- Q. He's one of the proprietors?—A. He's one of the proprietors.
- Q. And do you know whether the order was given to destroy them?—A. Why, there has been a standing order ever since they have been there.
- Q. I ask you when it was?—A. I couldn't say the date.
- Q. Can you give us any idea when they were destroyed?—A. I can not say that.
- Q. Can you give us the name of the man who destroyed them?—A. I couldn't tell you that.
- Q. Whose custody were they kept in up to the time they were destroyed?—A. They weren't kept in any particular person. They were left in the office.
- Q. Who has charge of the office?—A. I suppose I have, in a sense.
- Q. Have you ordered them out of the office at some time?—A. Why, at different times I have; at different times I have.
- Q. Can you give us any idea when the registers of April 1, 1918, and weeks just prior to April 1, 1918, were destroyed?—A. I couldn't answer that question.
- Q. Can you approximate it?—A. Why, it might have been after—it is a question how long it would take to fill that particular register you are asking me for, or particular two registers—sometimes we work two registers together, in order to facilitate the work in the office for the girls, and immediately on filling them, ordinarily they lay around, and it might have been a day and it might been a month, they were simply destroyed.
- Q. Who audits your books?—A. Why, I audit a good deal of, and the fact we have an auditing concern by the name of Hartshorne. The monthly audits are mostly audited by myself, except if I happen to go away, and then whoever happens to be around there.
- Q. So you have no way of telling who was there on April 1, 1918?—A. No, sir.
- Q. Or when the books were destroyed?—A. No, sir.
- Q. How do you make up your income-tax returns in the absence of this information?—A. They are made by this auditing concern from our general private office cashbooks.
- Q. In other words, the real evidence, the best evidence of whatever rooms, the income of the rooms may be, is destroyed, and you have to rely upon summaries made, upon summaries made out of these books?—A. Yes, sir.
- Q. And there is no way of finding out whether those summaries are correct or not, now?—A. Why, they are correct.
- Q. I know, but no way of verifying, is there?—A. No; we are satisfied—satisfactory to me at the time.
- Q. No way of satisfying anybody else?—A. Never thought of anyone else being satisfied.
- Q. How could you satisfy the Government on that point if they were in doubt?—A. I couldn't answer that. I don't know.
- Mr. CALLAHAN. I think that's a nasty comment. They keep their books regularly and orderly.

Cross-examination by Mr. CALLAHAN :

Q. You have a cashbook, Mr. Murphy?—A. Yes, sir.

Q. And your ledgers——A. Yes, sir.

Q. And it would show there by the cash taken in that hotel; that's so, isn't it?—A. That's so.

Q. About how many people do you have there staying a night?—A. Averages anywhere from 250 to six or seven hundred people sometimes.

Q. You have a greater rooming capacity in that hotel than any other hotel in the city?—A. One of the largest in the city.

Q. You average 250 to 500 a night?—A. Yes, sir.

Q. It don't take very long to use up a ledger?—A. I have just ordered a capacity of 50,000. I don't know how long they will last.

Q. You mean of registration books?—A. Registration books.

Q. Now, at election, a year or so ago, Mr. Tague had headquarters in your hotel, didn't he?—A. Yes, sir.

Q. And for how long?—A. Why, a month, month and half, two months. I don't know how long.

Q. Had political headquarters there?—A. Yes, sir.

Q. You and the management are very friendly with Mr. Tague?—A. Yes, sir; Mr. Tague is very friendly, and we are with him. That is, we think we are.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. Just one question.

Redirect examination by Mr. O'CONNELL :

Q. Do you know—the night before the primaries of September 24, did John F. Fitzgerald have a room in your hotel?—A. I don't know. I couldn't tell.

Q. Is he permitted to have a room in that hotel without registering?—A. No more than anyone else.

Q. Do you recall him having a room there that night?—A. I couldn't say.

Q. Any way of proving that or not?—A. I couldn't say, sir.

Q. Do you recall whether you were present or not on September 23 and 24, last year?—A. Yes, sir.

Q. Do you recall Fitzgerald having the election—three members of the Boston election commissioners in his room that night?—A. No.

Q. Do you recall they slept down there at his request, and that arrangements were made for him; by him, rather?—A. I don't know.

Q. You don't know about that?—A. No, sir.

Q. Isn't it true, Mr. Murphy, that Mr. Fitzgerald goes to the Quincy House and uses rooms there without registering?—A. Not to my knowledge—not to my knowledge. Of course, I am not in the office there a good deal; I couldn't say.

Mr. O'CONNELL. You may inquire, Mr. Callahan, about that dangerous ground you think that is.

Recross-examination by Mr. CALLAHAN :

Q. Mr. Murphy, I just want to ask you one question, whether your hotel is near the city hall?—A. Yes, sir; quite near.

Q. And do you know the election commissioners?—A. I know two of them I think. In fact, three; I was introduced——

Q. Do you recall in your years at the Quincy House, either the night before the primary, or the night before election, to have the election commissioners stay at your house?—A. Why, you mean the commissioners themselves?

Q. Or clerks?—A. Yes; they do. I didn't think of that before.

Q. A great many stay there?—A. I think most of them do.

Q. And they leave a call to be on the job before 6 o'clock?—A. They leave a call, I think at 4:30; something of that sort.

Q. Four-thirty?—A. Something of that sort.

And being down there every year?—A. Yes, sir.

Re-redirect examination by Mr. O'CONNELL :

Q. What clerks are they, Mr. Murphy, do you recall?—A. Why, I don't recall their names. They are—we always call them "election commissioners," whether they are the assistant commissioners or the clerks, there, or what, I don't know. They range from 15 to 20 or 25 of them.

Q. What three commissioners?—A. I know Mr. Burlen, Mr. Murphy, and Mr. Finnigan.

Q. And you don't recall those three men being at your hotel last September and not having to pay for their room?—A. No, sir; I do not.

Q. Don't recall the fact they were in Mr. Fitzgerald's quarters the night before the primary?—A. No, sir.

Mr. O'CONNELL. That's all, Mr. Murphy.

Re-recross examination by Mr. CALLAHAN:

Q. Now, if those clerks were there, are their bills sent to the city of Boston?—A. Yes, sir.

Q. And your cashbooks or your ledger would show an account with the city of Boston of the clerks and commissioners who stayed there before the primaries and election day?—A. Yes.

Mr. O'CONNELL. John F. Fitzgerald; who is his room billed to?

Mr. CALLAHAN. I am sorry you are trying to cast suspicion on an honest man.

Mr. O'CONNELL. You started it.

Mr. CALLAHAN. Nothing of the sort. Mr. Tague's headquarters were down there also. You had headquarters there when you were running for mayor of Boston, and you received the same consideration other people received there.

Mr. O'CONNELL. Mr. Tague's bills were never paid—settled by the city?—A. No, sir.

Mr. CALLAHAN. Where are Mr. Tague's bills sent?

The WITNESS. Sent to him.

Mr. O'CONNELL. And paid for by him? Been paid?

The WITNESS. Yes; I guess—that's a personal matter I wouldn't care to discuss.

Mr. O'CONNELL. I guess that's all, Mr. Murphy.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of *Peter F. Tague v. John F. Fitzgerald*, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Nancy H. Harris, and made oath that statement signed was true to the best of their knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss:

I hereby certify that the foregoing in this volume, containing about 52 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of *Peter F. Tague v. John F. Fitzgerald*, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

AFTERNOON SESSION.

Mr. O'CONNELL. Mr. Notary, will you kindly find out how many witnesses are present?

Notary BERMAN. How many witnesses are present this afternoon? [Witnesses make their presence known.]

Deposition of ARTHUR W. PIERCE:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Arthur W. Pierce.

Q. And your business?—A. Janitor.

Q. And where are you living now?—A. 43 Lynde Street.

Q. That is located in ward 8?—A. Ward 5 now.

Q. Lynde Street is in ward 8?—A. Isn't it ward 5?

Notary MANCOVITZ. Ward 5.

A. I have not been there only a few weeks.

Q. Where did you live before that?—A. I lived at 18 Joy Street.

Q. Where did you live before that?—A. 9 Allston Street.

Q. Where did you live before that?—A. Well, I lived in different places; down to 19 Causeway Street for quite a while and before that I was changing around. I work in different places, you know, doing janitor work.

Q. Give us the different houses you have lived in.—A. 18 Joy Street, 9 Allston Street—how far back?

Q. The last year or two.—A. This last year or two 18 Joy Street, 9 Allston Street, 19 Causeway Street, 43 Lynde Street. Those would take in the whole year.

Q. You are a janitor?—A. Yes; I do repairing, and that is pretty hard work.

Q. Do you state frequently that you live at 43 Lynde Street in the west end and had lived there eight years?—A. No, sir.

Q. Did you formerly live at 40 Montvale Avenue, Woburn?—A. Yes, sir.

Q. Did you tell anybody of that?—A. Nobody except over here.

Q. Prior to that?—A. Nobody.

Q. Do you vote from 19 Causeway Street?—A. 19 Causeway Street.

Q. What date did you go to 19 Causeway Street?—A. It may have been three or four weeks before the 1st of April.

Q. How long after the 1st of April did you live there?—A. It may have been two or three weeks after that.

Q. Give it as near as you can.—A. Two or three weeks.

Q. You have been doing that how many years?—A. Two or three years?

Q. I mean going there two or three weeks before the 1st of April.—A. No; I had lived in different places.

Mr. CALLAHAN. He said two or three streets in the west end.

Mr. O'CONNELL. I understand.

Q. Now, Mr. Pierce, year before last what time did you go to 19 Causeway Street?—A. I could not say for certain; I was there the 1st of April; I know that.

Q. How did you happen to know you were there April 1?—A. Because I voted from there.

Q. You didn't vote the 1st of April.—A. I had my name taken the 1st of April, anyway.

Q. Did you go there for that purpose?—A. No; I didn't go there for that purpose. Wherever I happened to be my name was taken.

Q. Three years you have had your name taken at that place?—A. Yes.

Q. Although you did not have any regular place?—A. Yes.

Q. Your business is janitor of different houses?—A. Not regular janitor—repairing work. Call it janitor.

Q. You are the same Arthur W. Pierce that gave this statement here?

Mr. BROGNA. That statement is not signed by him.

Q. Will you read what that says? [Handing paper to witness.]—A. No, sir; I never did sign that.

Q. You never told anybody that?—A. No, sir.

Q. You have read it?—A. Yes.

Mr. O'CONNELL. I offer into the record, Mr. Pierce has just read this statement by himself. The statement is as follows:

Mr. CALLAHAN. Was interviewed under subterfuge. Get that in.

Mr. O'CONNELL (reading). "Arthur W. Pierce, registered and voted from 19 Causeway Street, Boston. Pierce was interviewed under subterfuge, and stated that he had lived at 43 Lynde Street, in the west end, for the past eight years, and formerly lived on Montvale Avenue, Woburn. He is single. Sells horseradish, etc., and is very well known in the west end.

Q. That is what you just read?—A. Yes, sir.

Mr. O'CONNELL. I simply want to introduce into the record the fact that Mr. Pierce read that, and was able to read it.

Q. Now, Mr. Pierce, have you been selling horseradish?—A. I sold it about five years ago.

Q. Now, you know Mr. McNally?—A. I do.

Q. You are working in Mr. McNally's house now?—A. No, sir; I am not.

Q. What are you doing, Mr. Pierce?—A. I said I was working at 47 Temple Street, and I am going to fix Mr. McNally's room that he hires there.

Q. How often does Mr. McNally stay there?—A. Once or twice a week.

Q. How often have you seen him there?—A. Never saw him there; only know what the landlady told me. I never saw him in the house.

Q. Who is Mr. McNally?—A. Runs the 19 Causeway Street lodging house.

Q. McNally is the proprietor of the house?—A. Yes, sir.

Q. And he has this room?—A. His room where he goes sometimes in the day-times.

- Q. He stays there?—A. He stays there daytimes, sometimes.
 Q. Who told you?—A. Mrs. Armstrong, who runs the house.
 Q. What room did you have in 19 Causeway Street?—A. It is not a room. It is a dormitory.
 Q. It is all one room, is it?—A. Yes, sir.
 Q. Now, are you a married man?—A. No, sir.
 Q. Have you any children?—A. I never was married.
 Q. Where did you get this summons to come here?—A. Why, I got it at 43 Lynde Street.
 Q. Who is the landlord at 43 Lynde Street?—A. It is a Mrs. Statton that runs the house. McComber owns it. He owns that house and 39, too.

Cross-examination by Mr. CALLAHAN :

- Q. Mr. Pierce, you room out. Is that so?—A. That is the idea.
 Q. And you room in different places?—A. I room in different places. If I am working in a house, I sometimes get a room near my work. I always have changed.
 Q. You have always lived in the West End?—A. Yes.
 Q. And this house, 45 Lynde Street, is in this same ward 5?—A. I don't know. I have only been there since the 16th of January.
 Q. It is in the West End?—A. Yes.
 Q. It is not far from Causeway Street?—A. No; it is only a short distance to go down. A short distance.
 Q. You are nearsighted?—A. Yes, sir.
 Q. Very nearsighted?—A. Yes; if I haven't my glasses I can't see where I am going.
 Q. And you can not read without glasses?—A. I can't read with these glasses I have on.

ARTHUR W. PIERCE.

Deposition of JOHN J. McCARTHY :

Direct examination by Mr. O'CONNELL :

- Q. What is your full name?—A. John J. McCarthy.
 Q. And you are a married man?—A. I am.
 Q. And you are a hotel proprietor?—A. Yes, sir.
 Q. Of the Quincy House, Boston?—A. Yes, sir.
 Q. On Brattle Street?—A. Yes, sir.
 Q. You live at 29 Old Colony Road, Newton Center?—A. I do.
 Q. And have been living there about a year and a half?—A. Yes, sir.
 Q. Your wife lives there?—A. She does.
 Q. Have you any children?—A. No, I have not.
 Q. And you have your home there?—A. Yes.
 Q. And the house is furnished by you?—A. Yes.
 Q. The furnishings are owned by you?—A. Yes.
 Mr. O'CONNELL. That is all.

Cross-examination by Mr. CALLAHAN :

- Q. Now, Mr. McCarthy, you have other homes?—A. I have.
 Q. You have a home at the beach?—A. I have.
 Q. And where is that?—A. No. 128 Manomet Avenue, Hull, Nantasket.
 Q. And you stay there several months in the year?—A. Yes.
 Q. And Mrs. McCarthy stays there, too?—A. She does.
 Q. And you divide up the year, living sometimes at Newton and sometimes at the beach and sometimes at the hotel?—A. Yes, sir.
 Q. And you have an apartment at the hotel?—A. We have.
 Q. And Mrs. McCarthy sometimes stays there with you?—A. She does.
 Q. Were you there the 1st day of April last year?—A. I was.
 Q. And during the year you stay there?—A. I stayed there twice last week.
 Q. What do you regard as your domicile?—A. Quincy House, 128 Manomet Avenue, and 29 Old Colony Avenue.
 Q. And you regard your domicile these three places?—A. I do.
 Q. How many years have you been manager of the Quincy House?—A. Two.
 Q. How many rooms has the house?—A. Five hundred.

Redirect examination of Mr. McCARTHY :

- Q. You have a liquor license?—A. Yes, sir.
 Q. And you could not get a liquor license unless you were a resident of Boston?—A. I don't know.

Q. Don't you know that to be a fact?—A. Yes, sir.

Q. Isn't the real reason for your being a resident of Boston being able to get a liquor license?—A. I usually vote in Boston.

Q. In connection with the liquor license?—A. Yes, sir.

Q. In other words, if you got your home as 29 Old Colony Road, Newton Center, you would not get a license?—A. No, sir.

Q. But your regular home, as a matter of fact, is out in Newton Center?

Mr. CALLAHAN. He has said it three times.

Q. Please, your principal home——A. Well, I told you here——

Q. Please.—A. At the Quincy House. I work every other night late. Quite often when I work late the maids are out and my wife stays with me.

Q. As a matter of fact, isn't your principal home in Newton Center?—A. I would not call it my principal home. I am more often at the Quincy House.

Q. But it is your home?—A. Yes.

Q. And your maid is out there? Have you more than one maid?—A. Two.

Q. Have you an automobile?—A. Yes.

Q. Where do you keep your automobile?—A. Sometimes there and sometimes in Charlestown.

Q. How large is this home of yours?—A. Nine rooms.

Q. Nine rooms. It is a modern, up-to-date house?—A. Yes.

Recross-examination by Mr. CALLAHAN:

Q. Now, Mr. McCarthy, three or four months in the summer you don't go to Newton at all, do you?—A. No; I don't.

Q. And your principal home is in Hull?—A. Yes, sir.

Q. And during the month of April, if you are staying at the Quincy House, that is your principal home?—A. It is.

Q. And you chose that out of the three places as your principal home, your domicile?—A. Yes, sir.

Redirect examination by Mr. O'CONNELL:

Q. Did you bring the register here?—A. The register? I have not. I don't have anything to do with those after they are audited once a month. Mr. Murphy, the manager, has those and they are destroyed once a month. Since the 1st of July they have been kept on this true name bill.

Q. You never keep any books at all?—A. Oh, we keep books but not the register.

Q. Do you have a loose-leaf system?—A. We are putting it in now.

Q. You don't have a loose-leaf system?—A. No.

Q. So all you have had in the way of books is destroyed?—A. They are of no value.

Q. Mr. Thomas Murphy is the manager?—A. He is.

Q. He has been summoned here?—A. For to-morrow.

Q. And he will testify that he destroyed these books according to your orders?

Mr. CALLAHAN. How can he testify what Murphy will testify?

A. I never knew what happened to them—that is, after they have been audited they were destroyed or thrown away. I never knew what happened to them.

Q. By whose orders?—A. By my orders, because we have no further use for them.

Q. When did you give the order to destroy the registers?—A. When we first went in the Quincy House. We found about 20 of them, and I said to destroy them.

Q. And there is a standing order to destroy them?—A. Up to the 1st of July of this last year.

Q. And the others are destroyed?—A. Yes.

Recross-examination by Mr. CALLAHAN:

Q. How long ago was it you gave that order?—A. Seven years ago, when I found a whole lot of them down in the safe, where they were accumulating dirt and dust.

Q. In other words, before you took the house they were kept, and as soon as you took the house you found the registers of past days?—A. I found some

Q. You found some?—A. Yes.

Redirect examination by Mr. O'CONNELL.

Q. You are, of course, intimate with John F. Fitzgerald?—A. I am.

Q. And you know some of John F. Fitzgerald's friends who live elsewhere register from your house the 1st of April?—A. I don't know. Some one else has to do that.

Q. Who has charge of that?—A. The front office clerk.

Q. Who is the front office clerk?—A. I could not say. There are four down there.

Recross-examination by Mr. CALLAHAN:

Q. You are also very friendly with Mr. Tague?—A. Very friendly with him.

Deposition of ALFRED P. SCIGLIANO:

Direct examination by Mr. O'CONNELL:

Q. What is your name?—A. Alfred P. Scigliano.

Q. You are on the register for voting where?—A. 144 North Street.

Q. For five or six years you have lived at 137 Bellingham Avenue, Beachmont?—A. I never lived there in my life.

Q. Do you know where it is?—A. Yes.

Q. How much of the year do you spend there?—A. I could not say.

Q. Do you lease a house from Joshua Harron?—A. Yes, sir.

Q. He is your landlord?—A. One of them.

Q. I mean, in this house at Beachmont?—A. At 137 Bellingham Avenue?

Q. 149.—A. No; it is 149.

Q. It is 149 Bellingham Avenue. How long have you leased that house?—A. About six or seven years.

Q. And you live there with your wife and child during the year?—A. I don't live there. I am there at times.

Q. Is your wife there?—A. At times.

Q. When was she there?—A. Last Friday.

Q. Was the baby there?—A. The baby was there.

Q. You have a baby 3 or 4 years old?—A. Yes.

Mr. MANCOVITZ. I must insist Mr. Scigliano answer the questions.

Mr. O'CONNELL. Of course, Mr. Scigliano, we know each other, and anything you want to say I want you to say it, and the fact that Mr. Mancovitz doesn't want you to doesn't count, because he is a prejudiced judge, and he may feel that you might not tell the truth.

The WITNESS. I will tell the truth. There is no home about it.

Q. Now, Mr. Scigliano, you are interested in a liquor business at 140 North Street?—A. I am interested at 138, 140, and 142 North Street, the restaurant.

Q. The house at Beachmont is furnished by you?—A. And the other house I have.

Q. Do you spend your winter months down at Beachmont?—A. No; I can't say I do.

Q. How much time in the winter do you spend there?—A. I may spend a week now and then; but you are talking about months.

Q. How many weeks would you say you had spent there this past winter?—A. In December we went up; in January we went up. The influenza brought us down there again. Altogether, I may spend three or four months down there a year.

Q. How large a house is it?—A. Only five rooms.

Q. Would you say you have other homes?—A. Chelsea, Me., 140 North Street. I don't say it is a home.

Q. Chelsea, Me. That is your summer home?—A. I go up there in the winter. I was up there through the ice twice this winter.

Q. And you are up there in the summer?—A. I was down there last week.

Q. And did Mrs. Scigliano and the baby go down with you?—A. Where I go they go.

Q. Do you spend each summer down there?—A. I didn't spend any last year.

Q. As a rule? You and I were very busy last year.—A. During the convention I could not go anywhere. Spent my time between Beachmont and Boston.

Q. Doesn't this describe the situation?

Mr. CALLAHAN. Why don't you ask him a question?

Mr. O'CONNELL. I asked him a question.

Mr. CALLAHAN. And let him describe it.

Q. Doesn't this describe the situation: As a matter of fact you are interested in a business here, or you have a saloon on North Street, Boston—144 North Street, isn't it?—A. 140.

Q. And that you have your residence for voting purposes there in order to protect your interest in the liquor license, and that, as a matter of fact, you have a home at Beachmont, and then a summer home at Chelsea, Me., where you go? Now, isn't that the real state of affairs?

Mr. CALLAHAN. Describe it in your own way.

A. The fact that I wanted a liquor license has nothing to do with it. I was in that house 35 years. Some furniture has been added to it. The piano was left there, and I go there when I feel like it. It has been in the family a pretty long time. My wife and I are pretty good pals. She wants to be with me as much as possible. If we have a few weeks we work nights we are at North Street. Sometimes we go down in Maine. I am glad to be able to afford three residences.

Q. Isn't it a fact, if it were not for the liquor license you would not be living on North Street?—A. I have not been on the liquor license only six years.

Q. You succeeded your father?—A. No; I bought out another party.

Q. Your father was in it before you?—A. That is my home, Mr. O'Connell, and it has been my home ever since I have been able to realize a home; for sentimental reasons and for the sake of the home I would never give it up.

Q. Although you have a home in Beachmont?—A. No home. That is my home. I can have a dozen residences.

Notary BERMAN. Have you been sworn?

The WITNESS. Not to my knowledge.

(The witness was then sworn by Notary Berman, as follows: "You do solemnly swear that the testimony you have given and that you will give in the cause now in hearing is the truth, the whole truth, and nothing but the truth, so help you God?")

Q. Well, do you want me to reexamine you or are you willing to swear what you have said in answer to my questions is the truth?

Notary BERMAN. That was in the oath.

Q. Of course, you are interested in the Lomasney questions?—A. Why, yes.

Q. He has sent you, or rather you have been on the slate that he has elected to the legislature the last two or three years?

Mr. CALLAHAN. He has been elected by the people?

A. I have been in the convention.

Q. And you are on that slate Lomasney has held?—A. Yes.

Notary BERMAN. A nod of the head does not get into the record.

The WITNESS. I beg pardon. My throat is in bad shape.

Mr. O'CONNELL. That is all right. I will not ask you any more.

The WITNESS. Ask me all you want to.

Mr. O'CONNELL. I am not going to abuse you.

The WITNESS. You can't abuse me

Cross-examination by Mr. CALLAHAN:

Q. When you stay on North Street, your wife and baby stay with you?—

A. Wherever I go, they go with me, as a rule.

Q. And wherever you are for the 1st of April or the month of April your wife and baby are with you?—A. We happen to be away at times. I always make it a point never to miss an election or a primary, from March to May I live at 144 North Street, from the time I have voted since I was first of age, and I have my wife and baby there.

Q. You have voted ever since you were able to vote?—A. Since I was old enough to vote.

Q. How long have you lived in that house?—A. Thirty-five years, we have lived there. Been in business there since 1874.

ALFRED P. SCIGLIANO.

Deposition of THOMAS P. WALSH:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Thomas P. Walsh.

Q. Where do you live?—A. 18 Linden Park Street, Roxbury.

Q. How long have you lived there?—A. I have lived there 23 years.

Q. How long have you been living out there?—A. During that time.

Q. All these 20 years?—A. Twenty-two years.

Q. Did you ever live at 19 Causeway Street, Boston?—A. No, sir.

Q. Did you ever vote from there?—A. No, sir.

Q. How old are you?—A. Fifty-seven.

Q. You are married?—A. I am.

Q. And you live out there on Linden Park Street with your family?—A. Yes, sir.

Cross-examination by Mr. CALLAHAN:

Q. How tall are you, please?—A. I am 5 feet 9.

Q. And about what do you weigh?—A. I shall have to guess—about 180

Q. What is your business?—A. I am assistant custodian in the Roxbury court-house

Deposition of THOMAS A. McCARTHY:

Direct examination by Mr. O'CONNELL.

Q. What is your full name?—A. Thomas A. McCarthy.

Q. And you live at 125 University Road, Brookline?—A. No; I live at the Quincy House.

Q. Have you got a home at 125 University Road, Brookline?—A. I live there part of the time.

Q. Have you got a home at 125 University Road, Brookline?—A. I live there part of the time.

Q. Have you got a home at 125 University road, I asked you?—A. Yes.

Q. Did you live there last night?—A. Yes; last night.

Q. Came in from there this morning, didn't you?—A. Yes.

Q. When did you go there?—A. Oh, I should say—I can't give you a definite date on that.

Q. When did you take a lease of it?—A. I should say two years ago the 1st of last November.

Q. Took a lease when you first went out there?—A. Yes.

Q. You live with your wife?—A. Yes; at the Quincy House.

Q. I meant to ask you if you live out there with your wife. Were you out there last night with your wife?—A. Yes.

Q. Have you any children?—A. No.

Q. How much of a house have you at 125 University Road?—A. We have eight rooms and two baths.

Q. You have a maid there?—A. Yes.

Q. More than one?—A. One maid.

Q. Have you a garage out there?—A. No, sir.

Q. Where do you keep your automobile?—A. At a public garage.

Q. What garage?—A. Brandon Hall.

Q. That is on another street?—A. Yes.

Q. But quite handy to it?—A. Yes. Sometimes I don't think so.

Q. That is when you are climbing up the hill. It is all right going down. You are interested in the Quincy House, Boston?—A. Yes, sir.

Q. One of the proprietors, with your brother?—A. Yes, sir.

Q. And you are on the liquor license there?—A. No; I am not on the liquor license.

Q. You are not on the liquor license? How many of you boys are on that Quincy House, run the Quincy House?—A. There are four of us.

Q. Four, and all four interested in the Quincy House?—A. Three in the corporation.

Q. And you lived there up to the time you got married?—A. No; I was married when I came there.

Q. How long ago is that?—A. Five years ago. Five years ago the 1st of November.

Q. Of course you are interested in the corporation, the Quincy House corporation?—A. Yes, sir.

Q. One of the stockholders? A considerable stockholder?—A. Not considerable. I would say a light stockholder. The other two brothers are considerable stockholders.

Q. But you are interested in the Quincy House?—A. Yes.

Q. And you are naturally interested in Boston going license?—A. Yes.

Q. And being interested in that way, you naturally want to vote in Boston?—A. Yes.

Q. Have you a lease that you got with your house in University Road?—A. We own it.

Q. How long ago did you buy it?—A. We built them two years ago.

Q. How large a house it is?—A. There are four two-family houses, we own. I live in the upper suite of one of them.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. McCarthy, during April of last year you lived at the Quincy House?—A. Yes, sir.

Q. And Mrs. McCarthy was there?—A. Yes, sir.

Q. And in the summer time do you go away?—A. Yes.

Q. Where do you go?—A. Kenberma.

Q. You have a home at Kenberma?—A. Yes.

Q. And when you are at Kenberma you are never at Brookline?—A. Never.

Q. And for three or four months of the year that is your regular home?—A. Summer home.

Q. And for several months in the winter you live at Brookline?—A. The greater part of the time is spent at the Quincy House and that is my regular domicile.

Q. And you have a suite of apartments there?—A. Yes; and that is my home.

Redirect examination by Mr. CONNELL:

Q. But you have a home at Brookline?—A. That is a question for you to decide. The greater part of the time my home is at the Quincy House.

Q. In other words you work there and naturally spend most of your time there?—A. Yes, sir.

Q. Do you have a telephone at Brookline?—A. Yes, sir.

Q. What is the number of it?—A. 5544, Brookline.

Recross-examination by Mr. CALLAHAN:

Q. You also have a telephone at Kenberma?—A. Yes, sir.

Q. And at the Quincy House?—A. Yes, sir.

Redirect examination by Mr. O'CONNELL:

Q. And at the summer home, in the summer time, it is in your name?—A. Yes, sir.

Recross-examination by Mr. CALLAHAN:

Q. In April, out of the three places you might choose as your domicile, you choose the Quincy House as your domicile?—A. Yes, sir.

Q. And you are there the greater part of the year?—A. I should say the greater part of the time I spend at the Quincy House.

Redirect examination by Mr. O'CONNELL:

Q. Of course, you could not go to your summer house in the winter, the boats are not running?—A. Could go by automobile.

Q. And you have no thought of going by automobile, and the boats are not running until June?—A. Yes, sir. We go down there the latter part of April.

Q. And the maid closes the Brookline home and goes down to Hull?—A. Yes, sir.

Q. And around April 1 you are around the Quincy House?—A. Yes, sir.

Q. Of course, that is for the purpose of voting to protect your liquor license?—A. Yes, sir. Mr. CALLAHAN. He said it naturally was.

Q. You are at the Quincy House on the 1st of April for the purpose of protecting your liquor license?—A. We spend a great deal of time there.

Q. And you always make it a point to be there the 1st of April?—A. It happens to be there.

Q. It happens by design?—A. You can take it that way if you wish.

Mr. CALLAHAN. He has a right to change his domicile.

Deposition of EDWARD F. MCGINNISS:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Edward F. McGinniss.

Q. How old are you?—A. Thirty-two years old.

Q. You work in the park department of the city of Boston?—A. Yes, sir.

Q. And you live at 3 Trenton Street, Charlestown?—A. 117 Leverett Street, West End.

Q. Were you at 3 Trenton Street last year?—A. I was at 117 Leverett Street.

Q. When were you last at 3 Trenton Street?—A. I was there last Friday night for a few hours.

Q. And that is where your mother lives?—A. Yes.

Q. And your mother is Mrs. Bridget McGinniss?—A. Yes, sir.

Q. She owns the house?—A. Yes, sir.

Q. You are a single man?—A. Yes, sir.

Q. And your mother always has a home there for you?—A. Yes; if I wanted it, I suppose.

Q. But you choose to go over to 117 Leverett Street. Is that right?—A. Yes, sir.

Q. 117 Leverett Street. What kind of a house is that?—A. I live with Mrs. Sullivan.

Q. Who else lives there?—A. She occupies the whole house.

Q. You simply take a room from her?—A. Yes, sir.

Q. You don't eat there?—A. No, sir.

Q. You eat very often with your mother?—A. From time to time, as convenient, I do. I eat in Wright's restaurant on Causeway Street, as a rule.

Q. When did you commence to take a house at 117 Leverett Street?

Mr. CALLAHAN. A house?

Q. A voting residence there.—A. I have roomed there for the last year.

Q. Where did you vote before that?—A. The year previous I voted from 46 Nashua Street.

Q. Before that?—A. I voted from 46 Nashua Street for three years before.

Q. What precinct is 117 Leverett Street in?—A. Ward 5, precinct 4.

Q. You are on the supplementary list, aren't you?—A. Yes, sir.

Q. So that your name was not given to the police on the first of April?—A. It was given to the police but I guess they made a mistake.

Q. So the police did not get your name?

Mr. CALLAHAN. He does not know.

A. There seemed to be a mistake.

Q. If your name had been given the police on the first of April, there would have been no need of your going to have it put on later?—A. I only suppose my name was given to the police.

Q. You found out your name had not been given to the police?—A. I found it out later on.

Q. Who called it to your attention?—A. I called it to my own attention.

Q. How?—A. I looked on the assessors' list.

Q. When did you do that?—A. Some time in July.

Q. Do you mean to say there is an assessors' list ready in July?

Mr. CALLAHAN. Sure it is ready.

Mr. O'CONNELL. Wait a minute. Never mind that suggestion to the witness.

Mr. CALLAHAN. You know and everybody knows it is ready in July.

Q. Mr. McGinniss, who told you your name was off the list?—A. I looked it up when the list came out, the voting list.

Q. Who told you?

Mr. CALLAHAN. He says he looked it up.

Q. Who told you before you looked it up?—A. I generally look every year to see my name is on the voting list.

Q. You know there is no need of anything if your name is given to the police, it is carried from year to year?—A. They sometimes make mistakes.

Q. Don't you know they generally know?—A. They sometimes make mistakes.

Q. Did Mrs. Sullivan give them your name?—A. If she didn't, she ought to. I told her to give my name.

Q. When did you tell her to give your name?—A. Just previous to April 1, the last day of March.

A. Q. Did she write it down?—A. She ought to without writing it down.

Q. You know a list is left there by the police officers the first of April?—A. Yes. There is supposed to be one.

Q. Did you see that list?—A. No; but I told her to give my name to the police.

Q. When did you tell her?—A. I told her on the last day of March.

Q. You told her on the last day of March. You work for the city of Boston?—A. Yes, sir.

Q. And, of course, are familiar with the people in the Hendricks Club?—A. Yes, sir.

Q. And this 117 Leverett street is not very far from the Hendricks Club?—A. It is about five minutes' walk.

Q. It is about five minutes' walk. Would it take you five minutes to walk that distance?

Mr. CALLAHAN. Now, now.

Q. Isn't that one of the houses they maintain for planting voters?—A. I don't know anything about that.

Q. You don't know that is the house given you to register from?—A. No.

Q. You don't know Mrs. Sullivan personally, do you?—A. I have known Mrs. Sullivan the last 15 years.

Q. Do you want to tell us you gave her your name the last night before April first?—A. Yes.

Q. Where were you the year before?—A. I was at 117 Leverett Street.

Q. Were you at 117 Leverett Street the 1st day of April?—A. Yes, sir.

Q. And you were there for the purpose of being registered?—A. No; I generally have a room all the time.

Q. When did you start having a room there?—A. I started in January——
Mr. CALLAHAN. Let him answer.

Q. When did you start having a room there? A. In January, 1918.

Q. What time, January, 1918? A. The second week in January.

Q. How long have you occupied it?—A. Right around the last of June.

Q. Where did you go then?—A. Where did I go then? Up to a camp in the country.

Q. Where was that?—A. Up in Billerica.

Q. How long did you stay there?—A. Until after the Fourth.

Q. Then where did you go?—A. 117 Leverett street.

Q. Didn't you go over to your mother's?—A. No.

Q. How often do you go to your mother's house?—A. Twice a week.

Q. Your mother's house in Charlestown is not a mile away from this house?—
A. It is just about a mile.

Q. It is just about a mile, and you would rather sleep down on Leverett Street than at your mother's?—A. It is convenient to my work.

Q. Where do you work?—A. I work at the North Bennett Street gymnasium.

Q. And you want to tell us this place in Leverett Street is more convenient than Charlestown?—A. Certainly.

Q. How far is it to the playground?—A. About five minutes' walk.

Q. How far from your mother's home in Charlestown?—A. About a mile and a half.

Q. Is it a mile and a half from North Bennett Street to Charlestown where your mother lives? Is it a mile and a half?—A. I don't know. What did you think it was?

Q. I would call it less than a mile.

Mr. HARRINGTON. That is right.

A. Mr. Harrington can tell you.

Q. Does Martin take care of you?—A. Who?

Q. Martin.—A. Martin who?

Q. Who do you suppose I mean when I say Martin?—Who do you suppose I mean? Do you know such a man as Martin Lomasney?—A. Yes, sir.

Q. Know him well?—A. Fairly well.

Q. You know he is the political boss in ward 5, don't you?—A. I know he is a big man in politics in ward 5.

Q. You know the North Bennett Street playground is in ward 5?—A. Yes.

Q. And the place where you are voting is in ward 5?—A. Yes.

Q. And that your mother lives in Charlestown in another ward?—A. Yes.

Cross-examination by Mr. CALLAHAN:

Q. You say your mother's house is in Charlestown?—A. 3 Trenton Street, Charlestown.

Q. And what ward is that?—A. Ward 4.

Q. And it touches ward 5, and is a part of this congressional district?—
A. Yes.

Redirect examination by Mr. O'CONNELL:

Q. Separated by the Charles River?—A. Yes.

Q. And the city employees that live in ward 5 have a better chance of being protected by Lomasney than employees living across the river?—A. I don't know anything about that.

EDWARD F. MCGINNISS.

Notary BERMAN. Is there any witness present in this room here this afternoon who was called to testify in the case of Tague against Fitzgerald?

(No one answering, the hearing was adjourned until 9.30 Wednesday morning in the Federal Building.)

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F.

Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

BOSTON, MASS., *May 5, 1919.*

GERTRUDE S. COLE.

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 26 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

CHARLES H. HARRIS sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Charles H. Harris.

Q. Where do you live?—A. 25 Blackstone Street.

Mr. CALLAHAN. May I call attention to the fact there is no notary present?

Mr. O'CONNELL. The notary is standing right outside. He has got a headache and thought he would stand outside, where there is more air. Your notary is in the room. What you got him here for?

Mr. Berman, Mr. Callahan objects to your standing out there. He says you are not present.

Mr. BERMAN. Mr. Callahan knows I am present.

Mr. O'CONNELL. He says there is no notary present. He doesn't consider Mr. Marcovitz a notary.

Q. How long have you been living at 25 Blackstone Street?—A. Eighteen years.

Q. Got any other home?—A. No, sir.

Q. Live there day and night?—A. Yes, sir.

Q. What do you do?—A. With the deputy sheriff, Pemberton Square.

Q. Got any family?—A. No, sir.

Q. Single man?—A. Yes, sir.

Q. How old?—A. Fifty-nine years last November.

Q. Do you own any house?—A. No, sir.

Q. Got any interest in any property elsewhere?—A. No, sir.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. Get your fee.

Mr. O'CONNELL. Put in all these comments about fees.

JOSEPH V. MADDOCK sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Joseph V. Maddock.

Q. Where do you live?—A. 5 Eaton Street.

Q. You a married man?—A. No, sir.

Q. Ever married or got any family?—A. No, sir.

Q. Who do you live with?—A. 5 Eaton Street.

Q. Who do you live with?—A. Mr. and Mrs. Tim Crowley.

Q. Do you know where 8 Erie Street, Dorchester, is?—A. I do; yes, sir.

Q. How many years have you lived there?—A. I got out of the hospital, my mother lived there; about the 24th of December she died.

Q. Since the 24th of December, 1918?—A. Yes.

Q. Lived out there a good many years?—A. Go out a good many years.

Q. Lived out there?—A. Never lived out there.

Q. Often stayed out there?—A. Been out there.

Q. What do you mean?—A. To visit every week, went there.

Q. You have been going in and out on the cars, on the Erie Street cars, that I have been on for the last 10 years?—A. How do you know?

Q. Don't I know? Haven't you, really? Answer my question, please—A. I have; yes; ride out there when I go out to visit.

Q. And come in in the morning, don't you?—A. No; I haven't been out to Erie Street since the 24th of December.

Q. Prior to that?—A. Certainly.

Q. And come in in the early morning cars? —A. When I have been out there.

Q. And go out at night in the night cars?—A. When I have been out there.

Q. And been out there frequently, most of the time?—A. Most of the time?

Q. Yes; most of the time?—A. Most of the time down to 5 Eaton Street for four years.

Q. Help support the house at 5 Eaton Street?—A. I do not have to.

Q. Don't you?—A. I don't have to.

Q. Didn't you put money in there?—A. I do, once in a while.

Q. Who lived with your mother?—A. Brother and married sister.

Q. You are working for the city of Boston?—A. Certainly.

Q. Before your mother lived out at 80 Erie Street where did she live?—A. Fenelon.

Q. That's right around the corner from Erie?—A. Yes.

Q. Before you moved out to that part of Dorchester, where did you and your family live?—A. Columbia Road.

Q. Prior to that?—A. Page Avenue.

Q. And prior—A. Glenway Street.

Q. Prior to that?—A. 45 McLean Street.

Q. All these other streets you have mentioned are all in the same neighborhood?—A. Close.

Q. Out in Mr. Gallivan's congressional district?—A. Yes, sir.

Q. And you left the West End, which is now ward 5, how many years ago?—A. Might have left 12 years ago.

Q. And you have maintained a voting residence down there ever since?—A. Yes.

Q. That is because of your connections in the West End in the past?—A. I should say so.

Q. Your friends are down there?—A. Sure.

Q. And you have a great many friends and associates who are members of the Hendricks Club?—A. No, sir.

Q. Are you a member of the Hendricks Club?—A. No, sir.

Q. You go in there, of course?—A. No, sir.

Q. You contribute to it occasionally?—A. No, sir; not yet.

Q. You work for the city of Boston?—A. Yes, sir.

Q. What department?—A. Chief engineer, bridge department, city of Boston.

Q. Did you tell your mother not to give your name to the police the 1st of last April?—A. No, sir.

Q. Tell your sister?—A. No, sir.

Q. Tell the people in the house?—A. No, sir.

Q. Who did you? Who is the person you live with at 5 Eaton Street?—A. Mr. and Mrs. Tim Crowley.

Q. You have a room there?—A. Yes, sir.

Q. Also have a room out at 80 Erie Street whenever you want to go there?—A. Yes.

Q. Mr. Crowley you speak of is one of Lomasney's leaders?—A. I don't think so.

Q. Doesn't he work for the city of Boston?—A. I don't think—

Q. What does he do?—A. Blacksmith. I have been with him but 11 months.

Q. Prior to that what did he do?—A. Blacksmith, horseshoeing.

Q. You simply keep a room there with him?—A. Yes, sir.

Q. You take your meals outside?—A. At Woodbury's on Washington Street for about three years.

Q. Take all three meals at Woodbury's?—A. Often, and then my business takes me all over Boston; if it is handy I go in.

Q. In other words, you eat around at some restaurant, or place, outside of when you are calling at your mother's house?—A. I eat my meals at the bridge department, if I happen to be there.

Q. You don't eat your meals at the Crawford House?—A. No, sir.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. CALLAHAN.

Q. You formerly lived at the West End and you never abandoned your place?—A. No, sir.

Q. It is your home?—A. Yes, sir.

Q. You always considered it your home?—A. Yes, sir.

Q. And slept there many years?—A. Yes, sir.

Mr. BERMAN. How many children has Mr. Crowley?

The WITNESS. Four.

Mr. BERMAN. How many rooms does he occupy?

The WITNESS. Have a house of 11 rooms.

Redirect examination by Mr. O'CONNELL.

Q. Are there any others registered from that house, do you know?—A. I believe two.

Q. Know who they are?—A. McElanev and Cunningham.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. Get your fee.

JOHN J. BURKE sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. John J. Burke.

Q. What is your business?—A. Watchman.

Q. For whom?—A. The city.

Q. City of Everett?—A. City of Boston.

Q. You live in Everett, don't you?—A. No, sir.

Q. Out there this week?—A. No, sir.

Q. When was the last time you were in Everett?—A. Couple of weeks ago.

Q. What were you doing out there?—A. Went out to see my sister.

Q. What's the number? How often do you go out there?—A. Sometimes.

Q. Quite frequently?—A. Oh, sometimes.

Q. What do you mean by that?—A. What do you mean? You tell me what you mean. You tell me what you mean by "quite frequently" and I will answer it.

Q. Isn't it a fact you live in Everett?—A. No, sir.

Q. Your mother live there?—A. No.

Q. Anybody live there but your sister?—A. No, sir.

Q. Got any other family?—A. I've got a cousin up in Ashland.

Q. I won't put you quite so far out of the city, because it will cost you too much to get back.—A. I've been there.

Q. I am talking about your immediate family—your mother, father, brothers, and sisters. Have you anyone there but your sister?—A. No.

Q. Single man?—A. Yes, sir.

Q. Do you vote at 91 Chelsea Street, Charlestown?—A. Yes, sir.

Q. What is 91 Chelsea Street, Charlestown?—A. The home of Mr. McArdle.

Q. That's an undertaker's shop, isn't it?—A. No, sir.

Q. Isn't Mr. McArdle an undertaker?—A. Yes, sir.

Q. Isn't 91 Chelsea Street where Mr. McArdle has his telephone?—A. Yes, sir.

Q. And it is in connection with his business?—A. Yes, sir.

Q. And, in other words, you are glad to live there?—A. Not in the undertaking shop.

Q. Is in the back of the undertaking shop there where you registered from?—A. No, sir.

Q. Is that the room where they put in the bodies?—A. No, sir.

Mr. CALLAHAN. Wait just one minute. He said "No."

Notary MANCOVITZ. Let him go along.

Q. In other words, Mr. McArdle is not a relative of yours?—A. No, sir.

Q. Mr. McArdle is interested in politics?—A. Not that I know of.

Q. Member of the ward committee?—A. Well, you might know that; I don't.

Q. Oh, don't you? Tell us when you came to know Mr. McArdle?—A. Oh, 15 years ago.

Q. You were one of the commissioners from Fitzgerald at the recount, were you not?—A. Yes, sir.

Q. Although you were a city employee?—A. Yes, sir.

Q. And you keep a pretty good eye on politics, Democratic politics, don't you?—A. Not necessarily; no.

Q. In Boston don't you?—A. No.

Q. You do a little talking about that, don't you?—A. No, sir.

Q. What?—A. No. You never heard me talk.

Q. I? Oh, yes.—A. I beg your pardon. I never talked politics with you in my life.

Q. I didn't say you did.—A. Nor about politics. I never talked politics with you, did I?

Q. No; you certainly didn't.—A. Pardon me, but I did kind of check you up one day when you were abusing Mr. Fitzgerald down in the election room, if that's what you refer to.

Q. No; you never checked me up.

Mr. BERMAN. Called him to task for it?

The WITNESS. That might be it.

Q. What was your purpose in checking me up?—A. Because I didn't like to hear anybody talked about behind their back.

Q. Who represented Mr. Fitzgerald?—A. Nobody in the room.

Q. Who represented him?—A. Mr. Miller.

Q. Who else?—A. I didn't—

Q. Mr. Field?—A. I don't know. I didn't see him.

Q. Mr. Martin—A. I didn't see him.

Q. What arrangements have you made with Mr. McArdle about your room?—

A. In what way?

Q. All arrangements you made for stopping at Mr. McArdle's house, or having stopped there?—A. What do you mean?

Q. Tell us the details.—A. I've got a room over there.

Q. How long ago did you make the arrangements?—A. About two years ago, I guess.

Q. What were the arrangements?—A. I went down and saw him relative to taking a room—if he has one to let me have.

Q. How did you happen to go to him?—A. Because he was my friend. Naturally, you go to your friends when you are looking for a place to go when you have no home.

Q. Tell us the arrangements you made.—A. I went down to Mr. McArdle, intending to live at the other place—

Q. Where is the other place?—A. 174 Bunker Hill Street.

Q. Go ahead and tell what you told Mr. McArdle.—A. I can't tell you what I told him.

Mr. CALLAHAN. I submit this is an unfair question.

Q. Please tell us all you know.—A. I don't remember the talk I had, or Mr. McArdle.

Q. Do you remember the terms or agreement you made with him?—A. No terms.

Q. Or arrangements to pay him?—A. No, sir.

Q. You pay for your room?—A. No, sir.

Q. You don't pay for your room?—A. No, sir.

Q. In other words, you got a room. What kind of a room is it?—A. What do you mean "kind of a room"? Sleeping room.

Q. What kind of a room?—A. Bedroom.

Q. Ever sleep in it?—A. Yes, sir.

Q. When was the last time you slept in it?—A. Oh, last night.

Q. You don't pay for your room? I want to ask you what is your salary a year?—A. I haven't figured it up by the year.

Q. You get pair per diem?—A. Yes, sir.

Q. How much?—A. Three dollars a day.

Q. What do you contribute toward the support of the house in Everett?—A. Nothing.

Q. Don't you give your sister something?—A. When I feel like it.

Q. When do you feel like it?—A. Christmas and birthdays.

Q. That the only time you give her any money?—A. Yes.

Q. Where do you eat?—A. Thompson's Spa, Young's Hotel, Quincy House, and other places.

Q. You don't ever eat in the undertaker's rooms of Mr. McArdle?—A. No, sir.

Q. Sure you don't eat over there?—A. Absolutely.

Q. I want to be absolutely sure. How much of a family has Mr. McArdle?—

A. I'm not intimate with his family. My room is entirely separate from his family; but I think he has got three children, and he might have four.

Q. Yes; go ahead. Is that all?—A. His wife.

Q. Sure he has got a wife there?—A. Absolutely sure.

Q. Sure he has got some children?—A. I say, when I say sure, I'm not intimate with his family, don't you know? But from all accounts he has got three or four children.

Q. How long have you been there, did you say?—A. Couple of years.

Q. Anybody else live there?—A. I don't know. I'm not interested in anybody else.

Q. I just wanted to find out what you know.—A. I don't know.

Q. Who else is there?—A. I don't know.

Q. Why?—A. What?

Q. As a matter of fact, Mr. Burke, are you ever there?—A. Yes, sir. I told you once before, I have——

Mr. BERMAN. Don't hurt his feelings.

The WITNESS. I haven't got any feelings, and after knowing Abie, nobody would have any feelings.

Mr. O'CONNELL. Don't get excited.

The WITNESS. He's using the prong, isn't he?

Mr. O'CONNELL. Don't get excited.

A. I'm not excited. I am here to tell you what you want to know.

Q. Can you tell me whether anybody else lives in McArdle's house or not?—

A. No.

Q. I see.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. No questions.

Mr. HARRINGTON. Want your witness fee paid?

The WITNESS. I much rather have it than you.

Mr. HARRINGTON. All right.

Mr. BERMAN. We will adjourn until 2 o'clock.
(Noon recess.)

JOHN J. BURKE.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague v. John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

I hereby certify that the foregoing in this volume, containing about 12 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me under oath in the contested election of Peter F. Tague v. John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN, *Notary Public.*

BOSTON, MASS., *May 5, 1919.*

AFTERNOON SESSION, MARCH 5, 1919. 421 FEDERAL BUILDING.

Deposition of JOHN L. DONOVAN.

Direct examination by Mr. O'CONNELL.

Q. What is your full name?—A. John L. Donovan.

Q. Where do you live?—A. 14 Noanet Street.

Q. And you have been a representative in the legislature from ward 5?—

A. Yes.

Q. How many years?—A. Two years.

Q. And you know Martin M. Lomasney very well?—A. I know him.

Q. You were in the legislature last year?—A. I was.

Q. And you are a leader of the Democratic minority?—A. I was.

Q. Besides being in the legislature, Mr. Donovan, these two years, you have also been a representative in the city council and city government?—A. No; I was in the house in another ward while in the council.

Q. And you have charge of one part of ward 5, the Democratic end?—A. Well, I always look after that end since I have been down there, in my own way.

Q. It was old ward 7 before it came into ward 5?—A. Yes, sir.

Q. And when it came into ward 5 it took in that part of ward 5 which was formerly ward 7?—A. Yes.

Q. And did you receive \$1,000 from John F. Fitzgerald for helping him, for the purpose of spending it in his election at the State election last November at the time that he was a candidate for Congress?—A. I did not.

Q. Did you state to anybody that you did?—A. I did not.

Q. You know former Senator Green, of Boston?—A. I do.

Q. Do you know former Representative Giblin, of Boston?—A. I do.

Q. Do you know Representative Reardon, of Boston?—A. I do.

Q. This is Mr. Green and Mr. Giblin right here in the room?—A. I know.

Q. Do you recall meeting these three men and another in a party at Young's Hotel a few days after the State election?—A. I don't remember meeting them after the State election. No.

Q. Do you remember meeting them between election day and the present time?—A. I have met them several times.

Q. Did you discuss with them the matter of this election; that is, the congressional election last November, between Tague and Fitzgerald?—A. Not to my memory. We did not have any special discussion of that. We talked on all subjects.

Mr. O'CONNELL. I think that is all.

Cross examination by Mr. CALLAHAN.

Q. At the present time, Mr. Donovan, you are not very friendly with Mr. Lomasney?—A. I am not.

Q. And you have stated that publicly, that you are unfriendly?—A. I am not, certainly.

Mr. CALLAHAN. That is all.

JOHN L. DONOVAN.

Deposition of JAMES I. GREEN, sworn:

Direct examination by Mr. O'CONNELL:

Mr. CALLAHAN. Before Mr. Green testifies, I assume and I suppose you will say that it is true, that he is here to testify to a statement that is alleged to have been made by Mr. Donovan. Is that it? Now, I want to object to that and have my objection noted, for two reasons. First of all, there is no allegation of such a thing in the bill of specifications, and secondly, for the reason—perhaps Mr. O'Connell may do it—but in the regular order of procedure it would be impossible to put on a witness to contradict another witness that he has put on. It is a fundamental rule that you can not contradict your own witness; and I also give notice that the evidence is hearsay.

Notary BERMAN. Note Mr. Callahan's objection.

Q. What is your full name?—A. James I. Green.

Q. Where do you live?—A. 117 Baldwin Street, Charlestown.

Q. You have been quite prominent in the Democratic Party in Boston?—A. Always been a Democrat.

Q. What offices have you held, Mr. Green?—A. Political offices?

Q. Yes.—A. Been in the Boston common council.

Q. How many years?—A. One year. Legislature, two years.

Q. That is, in the lower house?—A. The lower house, and the Massachusetts senate two years. I was chairman and member of a ward committee, I can't tell you how many years. I don't remember just now.

Q. That is, in Charlestown wards?—A. My own ward.

Q. What ward is that?—A. It now is what they call ward 3. When I was there it was ward 4.

Q. Of Boston?—A. Of Boston. They have been redistricted since.

Q. What years were you a member of the Massachusetts senate?—A. 1915 and 1916.

Q. Mr. Green, you know Representative Donovan who has just—John L. Donovan, who has just testified?—A. I was in the council and legislature with him.

Q. And did you have any conversation with Mr. Donovan shortly after the congressional election last fall?—A. I did.

Q. Who was present at the conversation?—A. Mr. Giblin and Representative Reardon and another man. I can't just recall now; but he could be reached very easily by being sent for. Mr. Fitzgerald [pointing at Mr. John I. Fitzgerald], John I. Fitzgerald.

Q. John I. Fitzgerald. That is John I. Fitzgerald who was at that conversation?—A. Yes; came in while we were talking.

Q. Came in while you were talking. Where was the talk?—A. Almost at Young's hotel bar—at the door from the entrance from the bar in what I call the auditorium, or whatever the word may be.

Q. The lobby?—A. The lobby.

Q. Do you recall what Mr. Donovan said with reference to the election as to the use of money?

Mr. CALLAHAN. Note my objection.

A. I do.

Mr. CALLAHAN. Will you please note my objection to all this?

Notary BERMAN. Yes; note Mr. Callahan's objection.

Mr. CALLAHAN. On the ground that it is hearsay.

The WITNESS. How is it hearsay when I am telling what was said?

Mr. O'CONNELL. That is all right.

Notary BERMAN. Proceed.

A. I met Denny Reardon outside, and he said, "Do you know what John L. Donovan is around saying?" and I said "No."

Mr. CALLAHAN. That I object to—what Mr. Donovan said.

Notary BERMAN. Note Mr. Callahan's objection. Proceed.

A. I can't lead up to why I went in there. Is that it?

Q. Go ahead. Tell it in your own way.

Mr. CALLAHAN. We suspect why you went in there.

A. You and I went in for the same purpose a good many times, Tim.

Q. Tell it so the stenographers will get the story.

Notary BERMAN. Tell it in your own way, Senator.

A. I am trying to. I went in and saw John L. Donovan standing at the bar—away from the bar with a fellow that I know as I know Donovan. I said to him, "What are you doing? Are you around trying to kid people?" He said, "What do you mean?" I said, "I understand that you made the remark that Martin gave you \$1,000 for being with Fitz. Is it true?" He said, "Sure it is true." I said, "I think you are lying." I said, "I think you got that \$1,000 for getting out the vote." I said, "You are making a pretty strong statement, John, when you make that remark." He said, "Let Tague summons me down there." I said, "Are you game enough to be summoned?" He said, "Yes, let him summons me."

Q. Did you say anything further about it?—A. About what, Mr. O'Connell?

Q. Was there any further talk at that time?—A. There was not.

Q. Did anybody join in the conversation? Did Mr. Reardon or Mr. Giblin join in the conversation?—A. Yes.

Q. What did they say, if you recall?

Mr. CALLAHAN. That I object to.

Notary BERMAN. Mr. Donovan was there at the time? This was in Mr. Donovan's presence?

The WITNESS. Yes; Mr. Donovan was there.

Q. What was said?—A. Giblin said to him, "You are another one of Lomasney's stools. You are around to-day banging Martin and to-morrow you will be shining his shoes, and this is a mistrial to smoke out."

Q. Have you told us all that was said?—A. Yes.

Mr. O'CONNELL. Your witness.

Mr. CALLAHAN. When you say "mistrial"—

The WITNESS. Pardon me, Mr. Callahan. While we talking talking, Mr. Fitzgerald came in—Mr. John I. Fitzgerald—called Mr. Donovan to one side. What conversation they had, I don't know. They talked a minute or two, and then he came back to where we were, meaning Donovan, and said, "Yes, I am ready to go down there. Let Tague summons me."

Cross examination by Mr. CALLAHAN:

Q. You said that Mr. Giblin talked about a mistrial, and by this mistrial what did you consider that he meant?—A. Just what he said.

Q. Did he say anything else?—A. At that time?

Q. Did he say anything else at that time?—A. No.

Q. How long was Giblin with you?—A. How long was Giblin with us?

Q. Yes.—A. Not very long. He was not with us going in there.

Q. Was he with you five minutes?—A. I never carry a watch.

Q. Was he with you four minutes?—You can tell approximately.—A. I can not tell you approximately the time.

Q. Was he with you two minutes?—A. If you will allow me to tell.

Q. How long was he with you?—A. Reardon and I went in there, and while we were in there Giblin came over to us, and we went in there for the purpose of hearing what Donovan had to say.

Q. Why did you do it?—A. Why did we do it?

Q. What were you interested in Mr. Donovan for?—A. I just don't grasp the question.

Q. You said you went into the bar to hear what Mr. Donovan was saying, and I ask you why you did that?—A. I went in to hear if he would say what he did.

Q. And that is, you had heard of it from somebody else?—A. Denny Reardon.

Q. And you went in to see if it was true?—A. Yes.

Q. An that was in the bar?—A. It was not in the bar.

Q. Where was it?—A. It was not the bar, in the place outside.

Q. You know where the bar is?—A. You, too, you too, you know the place.

Q. You have been at both bars?—A. Yes, and you too, and we have been in worse places.

Q. Was it at the bar where you were talking with Mr. Donovan and Mr. Reardon?—A. Repeat the question, please.

Q. Was it at the bar where you were talking with Mr. Donovan and Mr. Reardon?—A. It was not at the bar.

Q. So, when Giblin came up to you, he did not come up to you in the barroom. That is so, isn't it?—A. Wait a minute.

Q. It is so, isn't it so? Can you answer that yes or no?—A. I can answer it; yes or no.

Q. You went up to the bar, didn't you?—A. Yes, I went up to the bar; and so do you, don't you, Tim?

Notary BERMAN. Don't quarrel.

The WITNESS. I am not quarreling.

Q. Can't you answer that; yes or no?—A. What was it? He is not going to get my goat.

Q. I don't want your goat.—A. I know it, Tim.

Q. Didn't Mr. Giblin—cross that out, please. Mr. Giblin came up to speak to you in the room where the bar is. Isn't that so?—A. Yes.

Q. Came up to speak to you just outside the bar?—A. At the threshold.

Q. How long was he there?—A. Who?

Q. Mr. Giblin?—A. While we were talking?

Q. Yes?—A. While we were talking?

Q. Do you know whether or not he heard Mr. Donovan say this to you?—A. He is here to testify himself if he heard it or not. I don't know.

Q. What made him say, "You are one of Lomasney's tools"?—A. Want my opinion?

Q. No; I don't want your opinion. I want exactly what happened.—A. I am telling it. I don't know.

Q. Was there anything said here as to what he meant by it?—A. He said, "Hello, Tom."

Q. You said, "Hello, Tom"?—A. Yes.

Q. Did Mr. Donovan say anything?—A. Yes; he said, "Hello, Tom."

Q. Was that all that was said at the time?—A. So far as I can remember.

Q. And then he turned away and said, "You are one of Lomasney's stools"?—A. Without anything else being said.

Q. You said, "Hello, Tom"; Mr. Reardon said, "Hello, Tom"; Mr. Donovan said, "Hello, Tom", and that was all that was said?—A. So far as I can remember that was exactly it. You are a good witness.

Q. And that was all that happened. Up to that time, Mr. Green, nothing had been said in his presence about \$1,000?—A. Well, he was there.

Q. No; you said, "Hullo"; Mr. Donovan said, "Hullo"; and he said, "You are one of Lomasney's stools." Up until that time nothing was said about \$1,000?—A. Up to what time?

Q. When Mr. Giblin said, "You are one of Lomasney's stools."—A. Yes; there was, but Giblin was not there then.

Q. Exactly.—A. Let me answer your question. Pardon me; I have as much right here as a witness as the attorney has, and he has asked me a question, and I want to answer it.

Q. Please answer my question.—A. I am trying to. You asked me, if I may say it, was that remark made about \$1,000 previous to Mr. Giblin coming there, didn't you?

Q. He did not hear it.—A. It was made before Giblin came there, and then was repeated when Giblin was there.

Q. All right; let us bring that out.—A. That is what I am trying to bring out.

Q. Let us get that clear. You made these remarks to him and your two friends, Mr. Giblin and Mr. Reardon, and then he said, "You are one of Lomasney's stools"; and when, after that, was the thousand dollars mentioned to Mr. Giblin?—A. Can I answer now without you interrupting, Tim?

Mr. O'CONNELL. Yes; tell it in your own way and take your own time.

Mr. CALLAHAN. Wait a while. I want him to tell it in his own way, answering the question. You can tell when, after that, anybody mentioned \$1,000.

A. When did anybody?

Q. Yes. When after that?—A. Giblin said, "You are a stool"—

Q. Yes; said that to Mr. Donovan.—A. "You are around knocking Martin, and there is something in your crop."

Q. Yes.—A. So I said, "Do you know what he has just said, Tom?" and he said, "What?" He said that Martin gave him a thousand dollars for being with Fitz; that he is bought with a thousand dollars, and I again answered him back and said, "Martin never gave anybody a thousand dollars without getting his."

Q. You regarded it as a joke?—A. Who?

Q. You.—A. I don't regard anything Mr. Lomasney does as a joke.

Q. You didn't know Mr. Lomasney did it. You thought it was a joke.—A. He was not kidding me, Tim, any more than you are outguessing me.

Q. I am not outguessing you. I want to ask you a few questions. You did not believe Donovan when he made that statement?—A. Do you want an honest answer?

Q. Of course I want an honest answer.—A. All right; give us the question.

Q. Didn't you say in your direct examination, "Stop your kidding. Lomasney would not give anybody a thousand dollars"?—A. Sure.

Q. And you believed Donovan was joking?—A. Not joking.

Q. What did you believe?—A. I don't know. I did not think he was joking. I said, "What are you doing, trying to kid me?" I thought he was kidding. I did not believe Martin would give anybody a thousand dollars unless he got his.

Q. And that is what you think now?—A. That is what I think now. I don't know, just seeing you and Feeney here, and knowing what he has done to you people, I don't know but what he might spring a thousand.

Q. Of course, if you want to bring Mr. Feeney in and me, I am going to approach this with perfect candor. I am not going to make more of a joke of it than anybody else.

Mr. O'CONNELL. I don't see any joke about it.

Mr. CALLAHAN. Yes; there is.

Q. I want you to answer my questions under oath.—A. I have been attempting to do that.

Q. You did say, didn't you, that you did not believe it, and that you did not believe that Martin would give it?—A. I am not going to answer it when you say "did you." Which one do you mean?

Q. Didn't you say that?—A. Which one?

Q. That Martin would not give a thousand dollars unless he got something in return.—A. Exactly; and so do you, unless he had a purpose. I verified that, too.

Q. In this last campaign you were one of the most ardent supporters of Mr. Tague, weren't you?—A. I did what the returns of the primaries show that a lot of other men did. I voted for Mr. Tague.

Q. Yes; but you were one of his chief supporters?—A. I don't know what you mean by chief supporters.

Q. Do you mean to say, Mr. Green, in that primary a declaration by you for Mr. Tague, "Vote for him," was not made?—A. That is a peculiar question.

Q. What is it—A. That is a peculiar question.

Q. Will you read the question? [Question read.] Is that a peculiar question?—A. Do you mean by that—may I ask a question? Do you mean I was out on the stump?

Q. You can ask questions and answer them if you want to. That is apparently your intention.—A. That I was out on the stump asking everybody I could ask to vote for Mr. Tague?

Q. Did you do that?—A. Yes.

Q. Then you did everything you could for him?—A. Did everything I could that was honest and legitimate.

Q. Were you out nights speaking at rallies for him?—A. Yes.

Q. Did you speak at the polls for him?—A. I did not.

Q. Did you put any workers at the polls on election day?—A. I did not.

Q. Did you receive any money for your work?—A. I never received any money from Mr. Tague. Oh, no.

Q. Did you have any workers in any of the precincts in Charlestown?—A. I had none.

Q. Did you have any automobiles driving around for him?—A. I was riding in them. I don't know who paid the bill.

Q. As a matter of fact, you hate Mr. Lomasney intensely, don't you?—A. Not half as bad as you do, Tim. I don't hate Mr. Lomasney. I admire him.

Q. You hate Mr. Fitzgerald, don't you?—A. No.

Q. Mr. John I. Fitzgerald?—A. I do not.

Q. Haven't you at times?—A. Never; even when he fought me for the Senate; never did I say anything that was not legitimate. I have never said a word about Mr. John I. Fitzgerald that I would not tell them to their teeth. I have never spoken disparagingly of either of them, and that is my last word to you.

Q. I understand you have been saying kind words about them?—A. I will not say that.

Q. Have you ever said any pleasant things about them?—A. Yes; I thought they were pretty game fellows.

Q. Have you ever said any other pleasant things about them?—A. I guess that answers it.

Q. That is about the limit?—A. Yes.

Q. At the primary recount you were one of the watchers for Mr. Tague, weren't you?—A. I don't know what watchers are.

Q. You were at the election commission all day?—A. I was.

Q. And you were at a table?—A. I was.

Q. And you were counting ballots?—A. I was.

Q. And protesting ballots?—A. I was.

Q. And making comments about the watchers and officials there?—A. You were one of them.

Q. You were making comments about John I. Fitzgerald?—A. No.

Q. About anybody there?—A. Yes.

Q. Did you find fault especially with the clerks of the election commission?—A. I found fault with the special watcher at the table I was working at.

Q. And you expressed that very loudly?—A. I imagine I did.

Q. At the election recount you were there with Mr. Tague also?—A. I was.

Q. And you were there all day?—A. I was.

Q. And both days?—A. Yes.

Q. And you were at a table?—A. I was.

Q. And you said some things about Mr. Fitzgerald?—A. I did not.

Q. And you said some things about Mr. Lomasney?—A. I did not.

Q. Didn't you say something about Mr. Fitzgerald?—A. This Mr. Fitzgerald as being put in the record, Mr. Callahan is speaking about now, is Mr. John I. Fitzgerald?

Q. Exactly.—A. That should go in the record, because anybody would be confused. The other is John F. Fitzgerald.

Q. But didn't you say something about Mr. Fitzgerald?—A. Which Mr. Fitzgerald?

Q. John I.—A. No.

Q. And about Mr. Feeney?—A. No.

Q. You did not say anything?—A. No; I did not.

Q. All right, if you want to leave it that way. About two years ago you were a candidate for the Senate?—A. I was.

Q. And it was in this district, comprising Charlestown and ward 5. Is that so?—A. Yes.

Q. Was it so or wasn't it?—A. Of course it was.

Q. And for two years before that you had been Senator?—A. I had.

Q. And that year John I. Fitzgerald was a candidate against you and Mr. Lomasney was against you?—A. He was where?

Q. Mr. Lomasney opposed your election?—A. Yes.

Q. He did?—A. That is so.

Q. And wasn't there considerable bitterness engendered in that fight because Mr. Lomasney and Mr. Fitzgerald were against you?—A. How can I answer that right?

Q. Yes or no?

Notary BERMAN. Answer in your own way.

A. To show how much bitterness there was in me, that night I called up the Hendricks Club and congratulated them. That is, I called up with the purpose of congratulating Lomasney for the fine job, but he was not there, and I talked with the man that beat me [pointing to John I. Fitzgerald].

Q. On that job you say Mr. Lomasney and Mr. Fitzgerald. Mr. Tague contributed also to your defeat?—A. Sure he did.

Q. And Mr. Tague was allied with them?—A. I don't know anything about Mr. Tague's affairs.

Q. Don't you know Mr. Tague was against you in that contest?—A. Sure he was.

Q. Don't you know Mr. Tague spoke against you in that contest?—A. He never mentioned my name.

Q. Don't you know Mr. Tague spoke in Charlestown?—A. Yes.

Q. And spoke against you?—A. I do not.

Q. Don't you know?—A. If you say, "Don't I know?" I will say I don't know. If you ask me if I think so, I will say "Yes."

Q. You will say that you think Mr. Tague in that contest spoke against and asked his friends not to vote for you?—A. He didn't say anything against me, but spoke in his own interest.

Q. Don't you know that Mr. Tague, in that contest, spoke against you and asked his friends not to vote for you?

Mr. O'CONNELL. Please let him answer.

Q. Don't you know Mr. Tague made a trade with Mr. Lomasney to defeat you for the senate?—A. No.

Q. Didn't you state it publicly?—A. No.

Q. Haven't you?—A. I never double-ruled you, Tim. I never made such a statement.

Q. Haven't you said that to me?—A. Never told it to you or anybody else.

Q. But at that time, just before the congressional election, and during the congressional election for which you are acting in days long past, he supported Mr. John I. Fitzgerald with the assistance of Mr. Lomasney, and he did that so he could go back to Congress without opposition, didn't he?—A. Give me that question again.

Q. You know that?—A. Wait a minute. Give it to me again.

Q. (Question read.)—A. Why, it is impossible to answer it, Tim. What is the name of who tried the Harry Thaw case?

Q. Never mind, but answer that question.—A. How can I answer that question?

Q. You don't regard your evidence very seriously, do you?—A. If everybody regarded this case as seriously as I do—

Q. But you are not taking this very seriously?—A. I don't take it very seriously, but you are not fair with your questions. How can I answer that?

Q. Didn't you charge that in your speeches?—A. I did not. I may have had a purpose in not doing it. I may have thought Tague had a deal with Martin, but I figured I would get more votes in Charlestown if I let him alone.

Q. You were approached in this so if you know a thing you would not say it; were you not?—A. I always try to tell the truth.

Q. And it is some attempt?—A. Sometimes it is.

Redirect examination by Mr. O'CONNELL:

Q. You have told the truth here to the best of your recollection and belief?—A. So help me, God.

Q. And that fight in which you were fighting against these things down in ward 8—ward 5—you were prevented from challenging voters on that day?—A. Yes.

Mr. CALLAHAN. I object to that as immaterial.

Notary BERMAN. Note Mr. Callahan's objection.

Q. Your answer is what?—A. I will answer it if the judge says so.

Notary BERMAN. Yes.

A. Positively; yes.

Q. And did you attempt to challenge voters?—A. Yes.

Q. And were you prevented from doing so?—A. Me and my helpers were thrown out of the door.

Mr. O'CONNELL. That is all.

The WITNESS. Can I finish my story?

Mr. O'CONNELL. Yes. I thought you had.

The WITNESS. I was thrown out from Lynde Street. I don't know what precinct that is. It is the corner of Nashua and Lynde Street, and I asked the commission and relied for protection on the warden and he said, "You are going to get thrown out of here. You might as well get out." I said, "What right have you to come over here? You vote in the Bunker Hill House in Charlestown. I am going to get you taken out of there," and I went up to the election commissioners' office and Mr. Burlen——

Mr. CALLAHAN. That was the time you brought back——

Q. Was that man Mr. Celeste?—A. No; I will give you his name. I brought back the election commissioners at the time. That gentleman that is dead now, Mr. Minton, was election commissioner. I made a complaint to him. He came down with me and the man who was warden that day was demoted or else was taken from the ward. His name was John Lambert.

Q. How were your workers treated that day, so far as you know?—A. They were not treated bad. There was a lot came down to treat them bad, but they did not.

Q. You fought them back?—A. No; they did not. There was not anybody did any fighting when they saw people were prepared for it.

Recross-examination by Mr. CALLAHAN:

Q. Just one question. I understand you were thrown out of a precinct and you protested and that same night you went down and congratulated Mr. Lomasney?—A. That night, I did not go down and congratulate Mr. Lomasney. I did not say I went down and congratulated Mr. Lomasney.

Q. Don't let us quibble.—A. You are the one that is doing the quibbling, Tim.

Q. You called him up on the telephone?—A. I did.

Q. And you congratulated him?—A. I did; not him, but the fellow that was there.

Q. It was your intention to congratulate Lomasney?—A. Positively.

Redirect examination by Mr. O'CONNELL:

Q. And it was for the job that he did on you that you wanted to congratulate him? —A. Yes.

JAMES I. GREEN.

Deposition of THOMAS J. GIBLIN, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Thomas J. Giblin.

Q. And where do you live?—A. 26 Thurston Street, East Boston.

Q. You have been a member of the Massachusetts Legislature?—A. Yes, sir.

Q. How many years?—A. Three years.

Q. And before that you were a member of the board of aldermen?—A. Yes, sir.

Q. Elected at large?—A. Yes, sir.

Q. How many years?—A. Elected one year before they put in the charter.

Mr. CALLAHAN. May I, at this time, object to all this testimony? I don't know whether I did before. Because it is immaterial and is not going on by specification.

Q. Before that, you were a number of the Boston City Council?—A. No.

Q. Calling your attention to an interview in Young's Hotel with John L. Donovan at which Representative Reardon and Senator Green were present, will you tell us what was said by Mr. Donovan?

Mr. CALLAHAN. Why don't you have him show where he was?

Notary BERMAN. You have the right on cross-examination.

Mr. CALLAHAN. I know I have the right on cross-examination, but I want this man asked questions properly.

Notary BERMAN. I will have them put properly.

Mr. CALLAHAN. Don't make this more of a joke than you are already. Why don't you get the question put properly?

Notary BERMAN. Proceed, Mr. O'Connell.

Q. Calling your attention to a conversation at Young's Hotel, will you tell us when it was and what took place?—A. It was shortly after the election.

Q. Of last fall?—A. Yes.

Q. Will you go ahead?—A. I went into Young's Hotel to send a telegram to Washington. I had dictated the telegram and the girl was typewriting it. While she was typewriting it I stepped around to the cigar case to get a cigar. Standing at the door as I came in was Mr. Green, Mr. Donovan, Mr. Reardon, and another fellow, and they held me up.

Q. By that you mean that they stopped you?—A. Stopped me. Yes.

Q. Go ahead.—A. I saw the argument was getting very hot. I was not in much of a position for talking about politics. Did not care about talking about it.

Q. Why?—A. Well, I had just lost my boy on the other side and I was sending a telegram in relation to his belongings.

Q. Your boy was in the Navy?—A. Yes. So they started generally to sympathize with me, and I was talking with them a minute and the talk kind of made me sick the way they were chewing the rag. It looked to me like hypocrisy for a while and I expressed my opinion that it was, but they seemed to get down to a serious strain on it. I got my cigar and I listened to them for a while, and Mr. Green kept on questioning Donovan about a thousand dollars.

Q. What did he say?—A. Donovan said—

Q. What did Green say?—A. Green said, "They are telling a story around that you got a thousand dollars out of Martin."

Q. Did he say for what purpose?—A. For the Tague-Fitzgerald fight.

Q. For what purpose?—A. To carry the ward down there.

Q. For whom?—A. For Fitzgerald.

Q. What did Donovan say?—A. John said, "Yes; I did get the coin. I got it." Green says, "You are kidding." "No; I am not kidding." Green says, "You will not go through on that statement." "Yes; I will go through on it. If they summons me, I will go through."

Q. What was said then?—A. Well, John L. started to take a paste at Martin.

Q. What?—A. Put in a beautiful punch on him and said he had him on the run, and said he would put him down and out. I listened a while. I have seen a lot of them have them on the run and to-day they are down and out. I have seen them play both ends and the middle and expressed myself pretty forcibly. I said he was kidding, and he and Martin would be together that night and Martin would know everything that was going on. He was not sincere in it.

Q. What did he say?—A. He said he was absolutely on the level. You remember I served in the House with John.

Q. Where?—A. Served four years with him.

Q. Where was he?—A. He was with Martin on anything to be won against my district on any bill at all.

Q. How was the subject about receiving a thousand dollars brought up to Mr. Donovan?—A. Green kept bringing it up two or three times, and kept talking about it and chewing the rag about it.

Q. What did Green say to bring it up?—A. He said he would go through and he hoped he would be summoned down here. He got his wish.

Q. Be summoned down here for what? To tell his story?—A. To tell his story.

Q. What did you understand him to mean when he said he would go through?—A. I understood him to say he would tell what he did with the thousand—whether he distributed it or whether he put it south.

Q. Mr. Donovan is, of course, a very influential member of the Democratic Party?—A. If he is right. He is a victim of the Lomansey ax. If Martin don't want anybody they cut them off.

Q. Had you been a candidate for Congress at the primaries?—A. Yes; I filed papers.

Q. And you are not a friend of Mr. Tague?—A. No; I had not spoken to Tague for four years.

Q. While he was Member of Congress did you receive anything from him?—A. Not a thing.

Q. And you had an automobile running against him?—A. Yes. I made three speeches in Charlestown.

Q. Against him?—A. Yes.

Q. Will you tell us how you were induced to get out of the fight?—A. I had several talks with Martin in relation to it. I pointed out to him that it was easier to win Congress with ward 5's support than it was a small office. He said, "How do you make that out?" I said, "I went in there and cleaned you out against Kelliher."

Q. That is, you had been a candidate before?—A. Yes, sir.

Q. And running against Murray and Kelliher you had carried your district against both of them?—A. Carried both wards.

Q. Wards 1 and 2 of the present district?—A. Yes. I said, "I need your support. Nobody in East Boston can win without it. It is East Boston's turn." He said, "I will give it for yourself, but for nobody not in East Boston outside of one man."

Q. What did he say with reference to Mr. Fitzgerald?—A. Well, he informed me that I did not have any money to finance a fight, and I told him that I could raise \$5,000 at the time of the Murray fight——

Mr. CALLAHAN. You are not telling what you told him?

A. Had I had \$5,000 cash I would have been the nominee.

Q. What did Mr. Lomasney say?—A. He said, "You have not money to finance a fight." I said, "I can put \$5,000 down in it to get there." He says, "Where are you going to get it?" I named one man that would put in \$2,000 or \$3,000, and said, "I will put the rest in my own money."

Q. What did he say?—A. Well, he didn't take the money for it that day.

Q. What did he say with reference to Mr. Fitzgerald?—A. Well, they didn't spring Fitzgerald until the last week of the campaign, filing the papers the last two or three days.

Mr. CALLAHAN. Wait. The question is "What did he say about Mr. Fitzgerald?"

Q. Did he say anything about Mr. Fitzgerald?

Mr. CALLAHAN. You can write a history about this.

A. I don't know whether it is history or not. It is facts. He said, "I am not going to get stuck for any of my money. I am not going to go into this fight. I am not going to be a sucker for any of them. I am not going to put my money into it." I don't blame you for laughing, gentlemen. You know how he talks. "I am not going to be a sucker for any of them. If they fight a good honest fight, they can pay their own bills. I got held up in the Murray fight and I had to settle." He said, "I am not going to settle, no matter who goes to Washington." He said, "They have got to pay their own bills. I will not pay them." In other words, he did not want a candidate who——

Mr. CALLAHAN. Now, please. Tell what Mr. Lemasney said. You can write a book.

The WITNESS. I am not writing a book.

Mr. CALLAHAN. You can make a speech.

The WITNESS. I can make a definition. I understand it is allowable.

Mr. CALLAHAN. If it is understood it is a definition. You can not voice an opinion.

The WITNESS. Now, you are quibbling. A possible district attorney——

Notary BERMAN. Don't quarrel with him.

The WITNESS. I am not quareling. I like him, personally.

Mr. O'CONNELL. Tim is getting a little excited. Tell us the truth. That is all I want.

Notary BERMAN. Tim is my friend, and I don't want him picked on.

A. He said Fitz had a lot of money he made in Bethlehem steel; his son-in-law was in with Schwab, good connections, could make elegant connections down at Washington. He said, "I want a fellow down there not like Tague." He said Tague was yellow. He said Tague was a quitter. He said, "I will get him—." He said, "I will get him where I want him. He is not going back." I said, "Why don't you get him with an East Boston man? Why take Fitzgerald?" He said, "Fitz is a comer." I said, "Lomasney, I supported Martin Donovan for you. You have double-crossed every friend you had in this election of Fitz. Politically he is a piker, and I will never vote for him."

Q. Did you have any further talk with Mr. Lomasney about it?—A. I had several talks with him.

Q. And that was the substance of what was done in this fight or with reference to the fight?—A. After the fight got started I never went near them.

Mr. O'CONNELL. I think you may inquire.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. Giblin, I understand that you are not very friendly with Mr. Lomasney?—A. Well, there is not anybody. John I. Fitzgerald is not very friendly with Martin Lomasney.

Q. Now that you have got that out of your system answer my question. You are not very friendly with him?—A. Nothing personal against him.

Q. I suppose you have it against him that he never supported you.—A. Yes; he supported me.

Q. I mean in these fights you gained, this congressional fight.—A. No; I haven't it against him. He had a right to do as he chose.

Q. Have you anything against Mr. Tague?—A. No. I never shined up to him greatly, that is all.

Q. When you had this talk with Mr. Lomasney about the Murray fight did you talk with him about the Tague fight of four years before?—A. Did I talk with him?

Q. Yes.—A. Yes; we had some talk about it.

Q. What did you say to him and what did he say to you about the Tague-Kelliher contest?—A. About the Tague-Kelliher contest?

Q. Yes.—A. What did he say to me?

Q. Yes.—A. I don't just remember that we had any great talk on that part.

Q. Talk to him about what those votes cost him? Did he say anything to you about what the Tague vote four years ago cost him?—A. No.

Q. You knew he supported Tague four years ago?—A. He said he spent some money.

Q. You knew it was through his efforts entirely Mr. Tague was elected?—A. I disagree with you.

Q. Don't you know Mr. Tague would not have been elected four years ago without the support of Mr. Lomasney?—A. I think Tague would have been elected without the support, and when ward 5 declared for Tague it drove off a lot of other people.

Q. Do you believe that?—A. I do believe that. The only time ward 5 lines up with you is when you have people going; when you have the end in sight they are on the band wagon, in behind. You found that out in the Gallivan fight.

Q. Now, let us see. You think Mr. Lomasney is of no value in an election contest?—A. It is of no value without he believes a thousand things, and he waits until right up to the night before. In this case he took the stand 10 days before, because he was spiteful against Mr. Tague, and the reason he took it about two weeks ahead of time was because he was spiteful.

Q. In spite of that, every contest you got into you would go down and see him?—A. No; I have him come and see me. I am one, gentlemen, that made him come and see me.

Q. Don't you always ask him for his support?—A. No; I have gone to the legislature with him against me. I told him very frankly I could go to the house without him.

Q. Let me ask two questions. In this talk—of course all this talk is camouflage?—A. In Washington they will not think so, and you know it is the truth. You are a clever man.

Q. In this conversation you had in Young's Hotel you say there was Mr. Rear-don, Mr. Green, yourself, and Mr. Donovan?—A. Yes.

Q. That conversation, you say, was at the cigar counter?—A. I did not say it was at the cigar counter. I said I met them as I was going in to get a cigar.

Q. And you met them before you went in?—A. Yes.

Q. And one thing you heard was about a thousand dollars?—A. Yes; they were passing around thousands like nickels.

Q. Mr. Green was talking about thousands of dollars?—A. No; John L.

Q. The first thing you heard was Mr. Green—please listen.—A. I am listening. All my life's cheap.

Q. Now, I know you are trying to be funny.—A. No; I am not. You are trying to be witty with me.

Mr. CALLAHAN. I am treating you pretty decently.

Mr. O'CONNELL. Oh, Tim.

Notary BERMAN. We have got to finish this hearing some day.

Mr. CALLAHAN. Before you get through we will be doing something else.

The WITNESS. Don't lose your head.

Q. We can pull your record on some of these assertions.—A. You can pull any record you want to.

Notary BERMAN. Mr. Giblin, give us a minute.

The WITNESS. Go through.

Mr. O'CONNELL. Don't let him get you excited.

The WITNESS. He can't get me in a thousand years. Just keep cool. You keep cool.

Mr. CALLAHAN. I submit, Mr. O'Connell is asking Mr. Giblin to answer my questions.

Q. First, were you there when Mr. Green spoke about a thousand dollars?—A. Yes.

Q. He said, "I will go down there," and he had reference to this investigation, hadn't he?—A. He said he would go down there?

Q. Yes.—A. John L. invited himself down there, wanted to come down.

Q. You did not hear Donovan say anything about a thousand dollars?—A. Yes.

Q. What was it?—A. He said he got a thousand dollars.

Q. From whom?—A. From Martin.

Q. Where?—A. At the Hendricks Club.

Q. For what?—A. To be with Fitz.

Q. Where?—A. At the election.

Q. Election or primary?—A. Election.

Redirect examination by Mr. O'CONNELL:

Q. Did you have any conversation with Mr. Brophy, of East Boston, about this fight?—A. Yes.

Q. Did it have any reference to spending money for Fitzgerald?—A. Yes.

Q. Will you tell us who Mr. Brophy is?—A. He is in the real estate business in East Boston.

Q. What is his relation to Mr. Fitzgerald?—A. He is his right-hand worker. Mr. Callahan knows him very well.

Q. For the purpose of the record; he is a very prominent Democrat in ward 2?—A. Served in the legislature.

Q. He is assessor of the city of Boston?—A. Yes.

Q. What did he say to you about the use of money for election day for John F. Fitzgerald running for Congress?—A. I made a speech in—

Mr. CALLAHAN. Answer the question.

The WITNESS. I am going to answer the question.

Mr. CALLAHAN. Then make your speech short.

Mr. O'CONNELL. Mr. Callahan is all excited. That is natural.

The WITNESS. Don't worry about me. I am not worrying about him. You will get your answer. I made a speech at Maverick Square and I took a little ball at Little Napoleon.

Mr. CALLAHAN. By a ball, what do you mean?

The WITNESS. I took a little smooch at him.

Notary BERMAN. Whom do you mean by Little Napoleon?

The WITNESS. John F. Fitzgerald.

Q. Go ahead. What did you say?—A. And I got through talking, and I got down off the machine and I was standing at the First National Bank, and he said, "Go easy on Fitz." He said, "Go slow. Tague is no good." He said, "Tague is not any good." (Take that in Spanish.) "Tague is not any good." I said, "Is that so?" I said, "He was good enough for you to be with four years ago." He said, "I have not spoken to him in that four years. You have not been around with him a lot." He said, "The 'old man' wants to clean him up."

Q. Who was the "old man"?—A. Martin. I said, "You want to clean him up." He said, "Fitz made a lot of money in Bethlehem Steel, and he has a ton of it." I said, "There is not any of them that I have noticed." He said, "There has been \$1,500 in the Columbia Trust Co., and they are all running away from it." That was in the early part. That was in the early part.

Mr. O'CONNELL. Don't pay any attention to them.

A. Tague went into the district and pointed out that they were trying to buy the election, and he scored them up, and he said he would have them prosecuted if they used money, and Mr. Murphy said, "Now is the time. I can fix it so you can slough off some of this coin." I said, "I will not take Fitz's money in a million years." I said, "He is the cheapest piker that ever left the city." It did not appeal to me. I said, "He is going to be cleaned up. I am going to take a crack at him from my machine." That was Friday. The next night, Saturday night, Fitzgerald and Brophy were in Day's place. I sent out a

statement that I was going to speak, but he talked for 2 hours and 25 minutes, until past 12 Sunday morning, when the police came up and said there would be no further speeches made.

Q. What other conversation did you have with Brophy?—A. I met him afterwards as I was taking a car through the tunnel. He said, "I have mine."

Q. What did he mean?—A. That he was well taken care of.

Q. That he had money?—A. Sure, that he had money.

Q. What did he say about the money?—A. He said it was lying around there loose. They were drunk with power. Martin and Fitz were drunk with power, and while it was going anybody was foolish that did not get it. I said, "If that is so, they are all over down there for the next 20 years."

Q. Who did you mean?—A. Lomasney and Fitz.

Q. Where was the money?—A. In the Columbia Trust Co. I was present when Mr. Coveney came up and touched me on the shoulder, and I said to him, "How have you given it out?"

Mr. CALLAHAN. Will you please note my objection to this?

Q. Before going into that Columbia Trust Co.—Mr. Joseph P. Kennedy is a son-in-law of Fitzgerald?—A. Yes. He bought the bank for him, by the way, between him and Lomasney.

Q. What is the occasion of Mr. Joseph P. Kennedy in that bank?—A. He married John F.'s daughter.

Q. What position has he held in the bank?—A. He was president, but he gave it up. His father is now president.

Q. His father represents him?—A. No; his father is president, and he is vice president of the Fore River Engine Works.

Q. Tell us what was said with reference to Mr. Coveney.—A. He said that Coveney had gone the distance, but that he did not want to give him any money until after election night.

Q. What did he say it was?—A. Tague came down to speak in a club down there, or Coveney told me that he did, and that he took care of him. Tague was not allowed in the room.

Mr. CALLAHAN. Note my objection.

Q. What room is this club in?—A. It is a room on Central Square, and the only time beer is served is around election time.

Q. What is the name of the club?—A. The East Boston Association.

Q. Do you understand Fitzgerald gave that money?—A. Fitz came there and spoke there and spoke there himself. You had to settle to get in.

Q. By that you mean what?—A. You had to give up your money in order to appear in the clubroom.

Q. How much money?—A. Whatever they assessed you. You have run for Congress.

Q. They were not in vogue in my day. Tell us what the system is.—A. The financial secretary or treasurer meets you and says, "The boys have got to be taken care of," and you give so much money and you will go through an entrance.

Mr. CALLAHAN. Note my objection.

Recross-examination by Mr. CALLAHAN:

Q. You are very prominent in politics in this city?—A. No; I don't consider myself as prominent.

Q. But you are quite prominent.—A. I am not a candidate for district attorney.

Q. But you are a candidate each year for office?—A. I have won quite a few of them.

Q. And you have lost some of them?—A. I have; some.

Q. In the last primary you tried to assist Mayor Peters?—A. Yes.

Q. And you were refused by Mayor Peters?—A. Not me.

Q. Didn't they convince you they did not want your support?—A. Martin M. Lomasney. I am glad you brought it out.

Q. Didn't it appear in the Boston papers Mr. Peters did not want your support?—A. Nothing official; nothing authorized.

Q. Wasn't that in the papers?—A. After Lomasney stooped in and attempted to queer me with Peters.

THOMAS J. GIBLIN.

Mr. O'CONNELL. Make a note in the record that Mr. Dennis Reardon, who was summoned for to-day, does not respond.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of their knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 33 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

[SEAL.]

ABRAHAM C. BERMAN, *Notary Public.*BOSTON, MASS., *May 5, 1919.*

JOHN A. SULLIVAN sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. John A. Sullivan.

Q. Where is your home?—A. At the Quincy House.

Q. How long have you lived there?—A. Six years.

Q. What is your business?—A. I am in the wholesale liquor business just down the street from the Quincy House, Blanchard & Co., 17 Dock Square.

Q. Are you married?—A. No; single.

Q. Where do your people live?—A. My mother lives in Dorchester.

Q. What part of Dorchester?—A. Twenty-three Tonawanda Street.

Q. How long has she been living there? —A. In that house for two years.

Q. Before that, where did you live?—A. One hundred and fourteen Melville Avenue.

Q. How many years did you live there?—A. How many years did I live there?

Q. Yes?—A. My people have lived there since I was 10 years old.

Q. Did you live there with your people? —A. Until my father died, and I went into the liquor business and then I went to live in the Quincy House.

Q. How much of your time do you spend at home with your mother?—A. Probably once a week I go out there; once or twice a week.

Q. Any oftener than that?—A. No, sir.

Q. Were you out there last night?—A. No, sir.

Q. The night before last?—A. No, sir.

Q. Sunday night?—A. Yes; I was out there Sunday night.

Q. Saturday night?—A. No, sir.

Q. All your personal property is at Tonawanda Street?—A. Very little.

Q. By that, what do you mean?—A. I have just—well, I don't believe I have got a suit of clothes there even.

Q. You leave your winter clothes there in the summer time and your summer clothes there in the wintertime?—A. No, sir; I keep all my clothes at the Quincy House where I room.

Q. How many rooms have you at the Quincy House?—A. One room.

Q. What number is it?—A. 258.

Q. You said you were interested in the liquor business, what do you mean?—A. I am a partner at present in Blanchard & Co., 17 Dock Square. I have another partner with me.

Q. Are you registered from the Quincy House because you are an intimate friend of John F. Fitzgerald?—A. No, sir.

Q. You are very friendly with him?—A. No more than with Mr. Tague.

Q. I didn't ask you about Mr. Tague. You know Mr. Fitzgerald very well? Your families have always been on friendly terms?—A. I know Mr. Fitzgerald and his family very well. I am not living at the Quincy House for that reason.

Q. You are very friendly with Mr. Kennedy, his son-in-law?—A. I know him very well.

Q. You know his family very well?—A. I know Mr. McCarthy, owner of the Quincy House, better, and that is the reason I live there.

Q. Please answer my question. You know Mr. Joseph T. Kennedy, Mr. Fitzgerald's son-in-law?—A. Yes, sir.

Q. Do you know Mr. Fitzgerald's daughter, who is Mrs. Kennedy?—A. Yes, sir.

Q. You have been at Mr. Fitzgerald's home a great deal?—A. Yes.

Q. And he has called at your home a great deal?—A. Yes.

Q. And this house in Dorchester on Melville Avenue, where you lived, Mr. Fitzgerald was accustomed to call there up to the time your father died?—A. Yes, sir.

Q. And after your father died your mother went to Tonawanda Street and 23 Tonawanda Street, isn't it?—A. Yes.

Q. That is a large single house?—A. No; two-family house.

Q. Who is at home with your mother?—A. My aunt and my sister.

Q. How many sisters?—A. One sister.

Q. The other sister is married?—A. Yes.

Q. Have you any brother?—A. No, sir.

Q. You are the man of the family?—A. Yes, sir.

Q. And, as such, you want us to understand that you reside at the Quincy House, Boston, and leave the women folks alone at Dorchester, is that right?—

A. I said I lived at the Quincy House.

Q. You prefer to live at the Quincy House rather than stay at home with the folks?—A. On account of business I live there. I have to support my mother, and I think of my business first.

Q. I suppose you pay all the bills out there at Tonawanda Street?—A. Yes; I do.

Q. Pay the rent?—A. I help to pay everything, but not necessarily the rent.

Q. You help to pay everything there?—A. Yes, sir.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Sullivan, you have been living at the Quincy House for two years?—A. Six years.

Q. And you have voted there six years?—A. Voted six years; yes, sir.

Q. Did anybody connected with politics ask you to get listed or registered from the Quincy House?—A. No, sir; I lived with Mr. John McCarthy before he was married.

Q. He is your close personal friend and intimate, isn't he?—A. Yes, sir.

Q. You have gone on trips with him?—A. Yes, sir; I go away with him in the summertime and have gone to Palm Beach two winters with him.

Q. You have no business relations with Mr. McCarthy?—A. No, sir.

Mr. CALLAHAN. That is all.

DOMINIC J. HARKINS, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Dominic J. Harkins.

Q. Mr. Harkins, you live at 21 Mount Vernon Street, Charlestown?—A. No, sir.

Q. Have you lived there?—A. Yes.

Q. When?—A. Some years ago.

Q. How many years ago?—A. Four years ago.

Q. Do you know who lives in that house now?—A. Yes.

Q. Who?—A. I know the family that lives there.

Q. What family is it?—A. The name is Carlin.

Q. Did you live with them?—A. No, sir.

Q. What part of that house did you occupy?—A. I didn't occupy any of the house personally, so far as I am concerned. My sister occupied a part of the house for a great many years.

Q. And did you live with your sister?—A. I boarded with her for a while.

Q. For how long?—A. Oh, for some years.

Q. At 21 Mount Vernon Street, Charlestown?—A. Yes.

Q. Is she there now?—A. No, sir.

Q. Where is she now?—A. Long Island; employed.

Q. 14 Chambers Street; what kind of a house in that?—A. A respectable house.

Q. I know; what I meant was, is it a hotel or apartment house?—A. It is a boarding house. I live there now.

Q. Is it a hotel or an apartment house?—A. It is a boarding house.

Q. Who is the proprietor of it?—A. Mr. MacDonald.

Q. And do you board there?—A. I don't board there, but I room there now at present.

Q. How long have you been rooming there?—A. I should say I went there in April—the 1st of April.

Q. Where did you go there from?—A. I went there from 21 Mount Vernon Street, Charlestown.

Q. You left 21 Mount Vernon Street on March 31 and went over there April 1, and how long did you stay there when you went there the first time?—A. I stayed there one night the first time—the first time I went there.

Q. And then where did you go?—A. I went to Charlestown.

Q. And how long did you stay back there in Charlestown?—A. I left Charlestown, I guess, in April, or in May or June last.

Q. And your purpose in going there the 1st of April was for the purpose of securing your voting residence in that ward?—A. Well, yes, it was.

Q. Daniel J. Harkins is your brother?—A. No, sir; he is my son.

Q. And he did the same thing at the same time?—A. No, sir.

Q. And what does your son do?—A. My son is an animal trainer.

Q. And where does he work?—A. He is working now—do you mean where he is working now?

Q. Yes.—A. He is working in the Boston Zoo.

Q. A city employee?—A. Yes, sir.

Q. And he is a member of the Hendricks Club?—A. Yes, sir.

Q. What do you do?—A. I am a watchman.

Q. Where do you watch?—A. In the sewer division.

Q. Did you and your son secure your positions with the city through friendship with any of the Hendricks Clubs?—A. Yes; I should say so.

Q. And in return for that you naturally want to show your appreciation by voting their way in their ward?—A. I know it is very nice of you to talk that way, Mr. O'Connell, but I was born in that ward in the first place, and my affiliations have always been in that ward.

Q. I see. How old is your son?—A. About 35.

Q. After you received this summons did you tell Mr. John I. Fitzgerald over there about it?—A. No, sir; I didn't receive the summons.

Q. Given to you by somebody?—A. It was given to me by my son.

Q. Left at your house?—A. Not at my house, but at the house in Charlestown.

Q. And they sent it to you?—A. Yes; he went over there to get the mail.

Q. Your mail is left at 21 Mount Vernon Street?—A. It used to be.

Cross-examination by Mr. CALLAHAN:

Q. You were born in this ward, weren't you?—A. Yes; I was.

Q. And years ago you represented it in the legislature?—A. Yes.

Q. And how long ago was that?—A. That was in 1884, 1885, and 1886.

Q. You have always voted there?—A. Pretty nearly always. I voted in Charlestown a few years.

Q. You are living at 14 Chambers Street?—A. Yes; now.

Q. And you get your mail there now?—A. Now; yes.

Q. And all your clothes are there now?—A. Exactly.

Q. And your trunks and bags and things. And you have lived there from April 1 of last year?—A. Yes, sir; I did.

Q. Now, you were familiar with this congressional district, Mr. Harkins, and what ward would this Mount Vernon Street be in, that is referred to by Mr. O'Connell?—A. I don't know whether—I should think in ward 4. When I was in Charlestown it was ward 3.

Q. The words changed a few years ago?—A. Yes.

Q. But at any rate you know that ward is in Mr. Tague's congressional district?—A. Yes; and so is the ward we live in now.

Mr. CALLAHAN. That is all.

DOMINICK J. HARKINS.

DANIEL J. HARKINS, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Daniel J. Harkins.

Q. You are the son of Dominic J. Harkins, who has just testified?—A. Yes.

- Q. And your business is what?—A. I am an employee of the city of Boston.
- Q. And work in the zoo?—A. Yes, sir.
- Q. You have lived at 21 Mount Vernon Street?—A. I have, did you ask me?
- Q. Yes.—A. I have at one time; yes.
- Q. How many years did you live there?—A. I don't remember.
- Q. Can you approximate it?—A. I have been away a number of years. I have been in the show business and been away for years, so I don't remember.
- Q. How many years were you away from town?—A. About seven years, I think.
- Q. And when you got back, didn't you go to Charlestown?—A. Yes.
- Q. And you lived there with your father?—A. I roomed there; yes.
- Q. What was the name of the family?—A. The house of Mrs. M. E. Harkins.
- Q. The other family living in the house was Carlin, wasn't it? You lived there with your sister, did you?—A. No, sir.
- Q. Did your sister live there?—A. No, sir.
- Q. Your aunt?—A. My aunt doesn't live there at present.
- Q. But she did live there the time you lived there?—A. Yes.
- Q. And what is her name?—A. Margorie Harkins.
- Q. She occupied the house and you and your father lived there?—A. Yes, sir.
- Q. Where do you room now?—A. 14 Chambers Street.
- Q. And when did you first take your room there?—A. Sometime in March, 1918.
- Q. What time in March, 1918?—A. I don't just remember the day. Somewhere around the latter part of March, I should judge.
- Q. Wasn't it the last day in March?—A. It might have been.
- Q. You went there with your father the same time?—A. Yes, sir.
- Q. After staying there for a short time you went back to Charlestown?—A. Yes.
- Q. Went back to Charlestown some time after that?—A. Do you mean as a resident there?
- Q. You went back there to live sometime after that?—A. No, sir.
- Q. You were summoned from 21 Mount Vernon Street, Charlestown?—A. No, sir; I was not.
- Q. Where did you get your summons?—A. Well, there wasn't any summons served on me.
- Q. Where did you get your summons to come here?—A. I was informed that a summons had been left in the entry at 21 Mount Vernon Street for me.
- Q. Who informed you so?—A. I think it was my father.
- Q. Aren't you the one who told your father?—A. No, sir.
- Q. You went over there, did you?—A. Yes; after I had been notified there was a summons there I went over to find out what it was all about.
- Q. Did you go over there to get the mail?—A. Not at that time.
- Q. Did you get any mail there?—A. Yes.
- Q. What other time did you go over for mail?—A. I have not been there for some time.
- Q. Did your father tell you to bring over his mail?—A. Do you mean on that day I went for the summons?
- Q. Yes?—A. Yes; I think he said, "If there is any mail there bring it."
- Q. You were working for the interests of Mr. Fitzgerald on election day?—A. Yes.
- Q. And where were you working for him at that time?—A. At the Frothingham School, Prospect Street, Charlestown.
- Q. And the Frothingham School is where people vote who live on Mount Vernon Street, Charlestown?—A. I don't know. Isn't the wards changed?
- Q. Don't you know you worked there on election day?—A. Yes.
- Q. And don't you know in that precinct that the people who live on Mount Vernon Street vote there?—A. I can not state that.
- Q. Wasn't it because you were familiar with that particular precinct, and the affairs of that precinct, that you went over there, Mr. Harkins?—A. I suppose so.
- Mr. O'CONNELL. That is all.

Cross-examination by Mr. CALLAHAN:

- Q. You knew, of course, that this ward in Charlestown where you were working was in Mr. Tague's congressional district?—A. Yes.

Q. And that if you had been a resident of Mount Vernon Street you would have had the right to vote for either Mr. Fitzgerald or Mr. Tague, just the same as you have on Chambers Street? Isn't that so?—A. Yes, sir.

Q. Where do you live now?—A. 14 Chambers Street.

Q. And you are there permanently?—A. Yes, sir; that is my permanent address.

Q. And did you find out from telephoning or otherwise that these summonses were at Charlestown?—A. Well, verbally. It had been telephoned to another party.

Redirect examination by Mr. O'CONNELL:

Q. Did you get the summons at 14 Chambers Street?—No, sir.

Q. If you were at 14 Chambers Street and a summons was left there for you, if you were there, you would have gotten it?—A. Yes.

Q. Will you go down and inquire for that summons, please?—A. At 14 Chambers Street?

Q. This summons was left there for you, and if it was left there for you at 14 Chambers Street and you didn't get it, the conclusion is that you are not living there now?

Mr. CALLAHAN. Young man, you don't have to answer to conclusions, and you don't have to answer argumentative questions.

Q. Do you know Mr. John I. Fitzgerald sitting there opposite you?—A. Yes.

Q. A prominent member of the Hendricks Club?—A. What do you mean by a prominent member?

Q. He is one of the leading members of it, isn't he?—A. He is a member of it, I suppose.

Q. Isn't he one of the very active members of it? Isn't he? There is no question about that? (No answer by witness.)

Mr. O'CONNELL. That is all.

DANIEL J. HARKINS.

MORRIS MORSE, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Morris Morse.

Q. Where do you live?—A. 14 Athelwold Street, Dorchester.

Q. Your business?—A. Hotel.

Q. What hotel are you connected with?—A. Hotel Avery and the Commonwealth.

Q. Hotel Avery and the Commonwealth are both in this ward 5?—A. No; the Avery is on Washington Street.

Q. That is the same ward.

Q. You are connected with the Commonwealth Hotel, that is over on Bowdoin Street? A. Yes.

Q. And the Avery hotel is on Washington Street, corner Avery?—A. Yes.

Q. How long have you been connected with them?—A. Which one? —

Q. Either one of them?—A. The Avery about four years; this is the fourth year.

Q. And the Commonwealth how long?—A. Since July 1, 1918.

Q. Whom did you succeed in the Commonwealth Hotel?—A. A man named Crafts, I don't know his first name.

Q. He was the owner prior to your time?—A. Yes, sir.

Q. And now in taking over the management of that hotel were any register books of those who lived there on April 1 left?—A. He took all the books. That is, he packed them up and I think he took them away since.

Q. So you haven't any books in your possession and never have had?—A. No, sir.

CYRUS M. CAMPBELL, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Cyrus M. Campbell.

Q. And where do you live?—A. Now at 8 Bowdoin Street.

Q. How long have you been living there?—A. Since last April.

Q. What time in April?—A. The first.

Q. Where did you live before that?—A. 39 Merrimac Street, the Merrimac House.

Q. What is your business?—A. Hotel business.

Q. What hotel do you run?—A. Hotel Central.

Q. Where is that?—A. 21-23 Green Street, Boston.

Q. How many rooms in that house?—A. Eighty-five, I believe.

Q. Have you the register of April 1, 1918?—A. I have not.

Q. Where is it?—A. I don't know.

Q. What became of it?—A. We had not been in the habit of keeping registers, except the one we were using at the time.

Q. When did you destroy the one that would include April 1, 1918?—A. I don't know. My head man, resident manager, of that house, could probably tell you.

Q. Who is he?—A. Mr. Whaley.

Q. Did you give him any orders to destroy the books?—A. For years we have been in the habit of destroying all books except the one we were using.

Q. As soon as a book is filled up it is destroyed?—A. Not exactly just as soon, but within a year.

Q. It is not a year since last April?—A. No.

Q. When was it destroyed?—A. Sometime about the time the true name bill came up.

Q. Just before the hearing by the ballot law commission of the Tague-Fitzgerald controversy?—A. I don't remember when that was.

Q. Have you got any cash book of April 1, 1918?—A. I could not say whether I have or not.

Q. Have you any ledgers?—A. Yes.

Q. Have you any records showing who was in that house on the 1st day of April last?—A. I don't think we have.

Q. How do you make up your income-tax returns unless you know that?—A. I keep a set of books of the income daily, but no names.

Q. Where is that book?—A. At the Hotel Bowdoin, which I also own.

Q. I think that is necessary for us to have?—A. It will show absolutely nothing except figures.

Q. What figures will it show as of April 1, 1918?—A. Receipts, cash receipts, and nothing else.

Q. And will it show any disbursements?—A. Any expenses if there were any paid out that day.

Q. Will it show there how the receipts are received?—A. No, sir; simply the cash.

Q. Have you any register of the Hotel Bowdoin?—A. Of last April?

Q. Yes?—A. No, sir; I bought it on April 1.

Q. Then the register went with it, didn't it?—A. Yes; but I——

Q. What did you do with the register?—A. I can not tell you.

Q. Hotel Bowdoin is on Bowdoin Street?—A. Corner of Bowdoin and Cambridge Streets.

Q. Right around the corner, a very short distance from your other hotel?—A. Yes.

Q. Can you give us some idea where that registry book is of April 1 for the Hotel Bowdoin?—A. I presume it has been destroyed.

Q. Did you give orders to destroy it?—A. I did not. I looked for it yesterday and couldn't find it, and I asked my son, and he said there was a lot of stuff there in the baggage room when I went there, and we destroyed it.

Q. The registry book of that date certainly wasn't in the baggage room?—A. It had been put in the baggage room since. My son would put it there.

Q. Would you destroy things in the baggage room without keeping a record of them?—A. Certain do, because it is junk.

Q. Have you any record showing the receipts of that date?—Q. Yes, sir; cash receipts only. It mentions no names or anything.

Q. Are you married?—A. Yes.

Q. Live with your wife and family?—A. Yes.

Q. How many children?—A. I got two children. They don't live with me, only one of them.

Q. Where does your wife live?—A. Hotel Bowdoin.

Q. With you?—A. Yes.

Q. All the year round?—A. Yes.

Q. Don't live any other place?—A. We go to the beach in the summer occasionally.

Q. What beach?—A. North Eastham, Cape Cod.

Q. Now, Mr. Campbell, will you tell us about these receipts? Were they simply lumped for that day?—A. Certainly.

Q. And whether that lump sum is correct or not there is no way of ascertaining?—A. It is absolutely correct, if my clerk is honest.

Q. Well, that is where we come. There isn't any way of ascertaining whether the receipts of April 1, 1918, are correct? No books with which it may be compared?—A. None whatever.

Q. No way of checking it up?—A. No, sir; except from the little slip turned in to me daily. On that slip is the amount of cash he took in that day, and he signs it at the bottom.

Q. But there is nothing to show from whom he got that cash?—A. Nothing whatever.

Mr. O'CONNELL. That is all.

WILLIAM C. WHALEY sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. William C. Whaley.

Q. And your business?—A. House manager and clerk of Hotel Central, 21 Green Street.

Q. And where are the records of the Central Hotel of April 1, 1918?—A. Destroyed.

Q. Who destroyed them?—A. I did, sir.

Q. When?—A. Somewhere from six to eight months ago.

Q. Where did you destroy them?—A. Threw them in the ash barrel.

Q. You threw them in the ash barrel?—A. Yes, sir.

Q. Where was the ash barrel that you threw them in?—A. Right there on the first floor by the office.

Q. An ash barrel on the first floor by the office, and into that you threw them?—A. Yes, sir.

Q. Did anybody see you do it?—A. Not to my knowledge.

Q. Why did you do it when there was nobody around?—A. It was just as good a time as any to get rid of it.

Q. Was it in the day or night?—A. It was done during the day, sir.

Q. And were you ordered to do it by anybody?—A. No, sir; that is the way I have always done.

Q. About six months ago would be—A. Six or eight months ago; something like that.

Q. Tell us, to the best of your recollection, about what month it was.—A. I don't remember.

Q. About the time of this Tague-Fitzgerald contest last summer?—A. No, sir; it was just after that notice came out in the paper that we were obliged to keep the registers for a year. It was in regard to that new law. I keep them for a year.

Q. When did you get a license under the new law?—A. When did we get it?

Q. When did you get the true-name license of that year?—A. Somewhere around the 1st of August, I should say, sir.

Q. You had to get a certificate from the excise board?—A. Yes.

Q. And had to file a statement under the true-name law?—A. Yes.

Q. And that was some time in August of last year?—A. Yes, sir.

Q. Was it about that time you destroyed these books?—A. Previous to that time.

Q. How long?—A. I could not say; I don't remember.

Q. No reason for your destroying it prior to that time?—A. No reason, except to get it out of the way hanging around.

Q. How many were hanging around at that time?—A. Perhaps two or three. I have two or three now on hand. I keep them a reasonable length of time.

Q. You have to keep them under the true-name law for a year?—A. Yes, sir; for a year.

Q. You know they have been trying to do away with that true-name law?—A. I know it only from the newspapers.

Q. And the fight to change that law was led by Representative John I. Fitzgerald?—A. I saw it was a Fitzgerald, but I thought it was Mr. John F. Fitzgerald.

Q. The man elected to Congress?—A. That is my interpretation of it.

Q. The true-name law bothers a great many hotels, doesn't it?—A. No.

(Mr. Callahan's objection noted.)

Q. Do you vote in ward 5?—A. Yes, sir.

Q. Do you realize that John I. Fitzgerald, now sitting here, is your Representative?—A. I don't know the gentleman at all, only by sight.

Q. You know who he is by sight?—A. I know his name to be Fitzgerald, but I didn't know it was John.

Q. You know the law was passed for the purpose of protecting the soldiers and sailors, don't you?—A. Yes; for their protection, to shut them out. Is that the idea?

Q. And in attempting to change it there were only seven votes cast in the Massachusetts Legislature, three of which came from ward 5, being Fitzgerald and his associates? You read that in the paper, didn't you?—A. No, sir; I did not, and I don't know one least thing about it.

Q. You read in the paper that there were 7 votes cast and that 3 were from ward 5 and 4 personal friends?—A. No, sir; I don't know whether there was 1 vote or 20 votes cast.

Mr. O'CONNELL. For your information it was about 200 to 7.

Cross-examination by Mr. CALLAHAN:

Q. Where do you live?—A. At that same address.

Q. Have you a family?—A. I have; yes.

Q. Where is your wife?—A. She is dead.

Q. Where is your family?—A. I have a daughter and a son.

Q. Where do they live?—A. There.

Q. Where do you mean?—A. No. 21 Green Street, city.

Q. How old are they?—A. The boy is 28 and the girl is 18.

Q. The son is married, I presume?—A. No, sir.

Q. Daughter either?—A. No, sir.

Mr. CALLAHAN. That is all.

WILLIAM J. MURPHY, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. William J. Murphy.

Q. What is your business?—A. Liquor business.

Q. Where?—A. No. 559 Columbus Avenue.

Q. You are registered from the Quincy House?—A. Yes, sir.

Q. Any relation of Mr. McCarthy's or the others who have testified?—A. No, sir.

Q. Your liquor business is where?—A. No. 559 Columbus Avenue.

Q. You are how old, Mr. Murphy?—A. Forty-six years old.

Q. Your sister lives in Waverly?—A. Yes, sir.

Q. That is a city outside of Boston?—A. Yes, sir.

Q. And you spend a great deal of time at your sister's house?—A. More or less.

Q. You are not married?—A. Unmarried.

Q. What is your sister's address in Waverly?—A. No. 15 Chandler Street. That is the number if any number has been given to it. It wasn't numbered until recently.

Q. You know that if you gave an address as living in Waverly you would not be able to get a license in Boston?—A. I presume so. I don't think I know the law very definitely on that.

Q. You gave the Quincy House, Boston, as your address on the liquor license?—A. Yes; I did.

Q. And you vote from the Quincy House, in Boston?—A. I do.

Q. What is your sister's name?—A. Mrs. William H. Murray.

Q. Were you at Waverly last night?—A. No, sir.

Q. Been out there this week?—A. I have not been out there for several weeks.

Q. You are registered from the Quincy House the 1st of last April?—A. I was. And also for several years.

Q. What room do you occupy?—A. I can not say for sure, but I kind of think it was 52.

Q. Do you know when that room was given to you?—A. I may have had it for possibly a week or two weeks prior to April 1.

Q. On and after April 1 how long did you have it?—A. Possibly a week or two weeks afterwards.

Q. When were you there before that?—A. I didn't keep track of the dates, but I am there more or less, and have been there more or less, since McCarthy

Bros. took possession of the hotel. I lived there permanently at the time they took possession until, I think, about 18 months afterwards.

Q. And then where did you go?—A. No. 148 Chandler Street, Boston.

Q. And who is the proprietor of 148 Chandler Street?—A. Mr. Shaeffer.

Q. How long have you lived with him?—A. Off and on, possibly 12 years. I keep a room there for convenience of my business, which is four or five blocks away.

Q. That is in another congressional district from where the Quincy House is?—A. Yes.

Q. Do you keep a room there permanently?—A. Yes, sir.

Mr. O'CONNELL. That is all, Mr. Murphy.

WILLIAM J. MURPHY.

HENRY F. LONG, sworn:

Direct examination by Mr. O'CONNELL:

Q. Your full name?—A. Henry F. Long.

Q. You are secretary to the governor?—A. Yes, sir.

Q. And last year you were secretary to Gov. McCall?—A. Yes, sir.

Q. Gov. McCall received a complaint from Mr. Tague requesting that supervisors be named for the conduct of the State election in wards 5 and 6?—

A. Perhaps that ought to be restated a little. He had a petition by citizens in wards 5 and 6 asking for the appointment of supervisors.

Q. And they were submitted by Mr. Tague?—A. No; they were submitted by Mr. Kane.

Q. Who is secretary to Mr. Tague?—A. He simply presented a petition of these citizens of these two wards.

Q. That called for the appointment of additional supervisors to look at the election?—A. The act says that the governor shall do it upon petition of these citizens at least 21 days before election, and the 21 days were complied with, and the petitioners were all residents of the two wards; and so the governor had nothing to do except go ahead with it in accordance with the provisions of the statutes.

Q. From whom did you get the names of those you appointed in ward 5?

(Objection to the question by Mr. Callahan.)

Notary BERMAN. If you don't understand the questions you may say so.

A. If I may answer it my own way?

Q. Surely.—A. At the instigation of the governor I got from the chairman of the Republican and Democratic ward committees of these two wards a list of names to be submitted, and I also, at the governor's suggestion, verified them at city hall as to their enrollment as being Republicans and Democrats, and both these lists were obtained from the chairman. The governor's idea was that that was the best way to get at it, because he didn't have time to go through the wards and pick out the Republicans and Democrats we thought could serve.

Q. You asked Mr. Tague for a list?—A. I told him he might submit a list which would have our consideration.

Q. Did you ask a list from Mr. Fitzgerald?—A. Asked the Democratic committee of ward 5.

Q. He was the man who furnished it?—A. Yes.

Q. He was then a senator?—A. Yes, sir.

Q. And a member of the Hendricks Club?—A. I don't know about that.

Q. He brought you a list from ward 5?—A. Yes, sir.

Q. And it was the list he brought you that was appointed?—A. Yes, sir.

Q. When that list was announced Congressman Tague protested, did he not?—A. Yes.

Q. And waited on the governor with Mr. Goodwin, his attorney?—A. Yes, sir.

Q. And called your attention to the fact that the men named by Senator Fitzgerald were of the same organization and affiliated with the same men who were in charge of the primaries?—A. I might state it a little differently from that.

Q. At that time there had been called to the attention of the public at the hearings the fact that many names of soldiers and sailors had been voted on?—

A. I am afraid that didn't enter into consideration very much. The governor knew all these things were taking place from the newspapers and the protestations of Congressman Tague, but he had nothing to do but go on the fact that these gentlemen were Democrats and Republicans. We put Democrats and Republicans both in from the two wards.

Q. When Mr. Tague and Mr. Goodwin called upon you and called attention to the fact that the names you appointed in ward 5 were all friends of Mr. Lomasney, was there any change made in the list?—A. No, sir.

Q. At that time it had not been confirmed, had it?—A. Not confirmed by council; no, sir.

Q. And those names could have been withdrawn and other names substituted at that time?—A. If there had been anything the matter with the gentlemen in the opinion of the governor.

Q. But no action was taken on the fact that the governor's attention was called to the fact that these men were Lomasney men whom he was appointing?—A. The governor didn't think that was a phase of the situation he needed to go into.

Q. But no action was taken?—A. No, sir.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Tague submitted to you all the names in ward 6, didn't he?—A. As to Democrats, yes.

Q. And in ward 6 all the Democrats that were appointed were submitted to you by Mr. Tague?—A. I think we did. I am not quite clear on that. In ward 6—I think that is right—we appointed Mr. Tague's list entirely.

Q. Do you remember, Mr. Long, that in the list submitted by Mr. Tague in ward 6, there was a man by the name of Shea?—A. Yes.

Q. And he was rejected?—A. Yes.

Q. And do you remember that he was rejected because he had been in the psychopathic hospital?—A. I remembered him also because we had some little trouble with him at the statehouse. I happened to know him, and I remembered his name as I went through them the second time.

Redirect examination by Mr. O'CONNELL:

Q. Isn't this the fact that in appointing these supervisors or inspectors you gave ward 6 to Mr. Tague's names and ward 5 to Mr. Lomasney's names?—A. If you want to put it that way. I would rather say we appointed the lists suggested by the chairmen of the two ward committees. The Democratic chairman of ward 6 and the Democratic chairman of ward 5.

Q. Surely the Democratic chairman of ward 6 didn't submit any Tague names to you?—A. I think he did; submit them through Mr. Tague.

Mr. O'CONNELL. Mr. Callahan says at this time that ward 6 committee didn't submit any names at that time, but were willing Mr. Tague should name all the supervisors in ward 6, he having been a member of the committee.

Q. Mr. John I. Fitzgerald was the man who submitted the list objected to by Mr. Tague for ward 5?—A. Yes, sir.

Mr. O'CONNELL. That is all.

HENRY F. LONG.

GEORGE W. HILL, sworn.

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. George W. Hill.

Q. And where do you live?—A. 39 Cambridge Street.

Q. You are the proprietor of the Darby House or Derby House?—A. Yes, sir.

Q. Have you the records of those who were there the 1st of April?—A. Yes, sir.

Q. Have you got it here?—A. Yes, sir; I got them all here.

Q. Bring it in, please.

(Witness produces an envelope containing several slips of paper.)

Q. You have produced what here?—A. Each man in my house is a voter, and I make out these slips, and I leave it in the room. I have each one of them make out the slips and bring it to me and then when they come around for the voters' names they sit down and read over that and copy off from that. There are men in my house last April, 1918, that were voters and 4 or 5 of them have been summoned here now.

Q. Who made out these lists for you?—A. I made these out myself, but each man made out his own list.

Q. Where did you get the form?—A. I made it up myself. That is to save time and help the officers when they come to get the names and get them right. It tells what they do; where they were last year; where they are this year; what their business is; and how old they are.

Q. What number Cambridge Street are you?—A. 39.

Q. How many were in your house on that night?—A. You can count them up. (Mr. O'Connell counts the cards and says there are 43.)

Q. Do you know when Harold R. West made out that card?—A. On the 1st day of April.

Q. Was he there?—A. In that room. I left one in each room to be filled out and returned to me.

Q. And then it was sent back to the office?—A. Yes, sir; and I filed it away and kept it for the officers when they take the names and also used them for the directory. So as to make sure of it, I make them tell what their occupation is and the slip calls for their age, and I made them put that on.

Q. How many of these men live there during the year?—A. How many of them?

Q. Yes.—A. Do you mean the whole year round?

Q. Yes.—A. I could tell you by looking the names over.

Q. Well, how many of them, in your judgment?—A. I could tell all of them by—

Q. Give us your best judgment. How long have you been there?—A. 35 years.

Q. And you are there all the time?—A. I live right there.

Q. Give us your best knowledge and judgment of how many of these men who were there on the 1st of April were there during the year?—A. They were away, back and forth. In a rooming house they go away and come back again, but these people were there on the 1st day of April and they filled them out according to what they asked for. They don't live there the year round, they might live there for three or four months, or one month.

Q. And it might have been for a day?—A. They were there longer than that.

Q. How many of them were there on the 31st of March last year?—A. All of them there.

Q. You want to tell me that all those men were there on the 31st of March?—A. Of what year?

Q. Of last year?

Mr. CALLAHAN. He means in 1918.

A. These are 1918.

Q. In other words all those you put in here were there, is that it?—A. Yes.

Q. Then there is no need of going over them. Have you got a register showing when any of those men registered in your hotel?—A. I never had a register. The only register I had was my ledger.

Q. Where is that?—A. At home.

Q. What home?—A. The drawer you pull out has a lot of slips on it with numbers and that is the number of the room. That keeps the names of the different people in the house.

Q. Well, that is what I want. Why can't you bring me that? I don't want lists made out this way.—A. Many names there have been changed.

Q. Who changed them?—A. Some of them have left the house.

Q. In other words, you have no register?—A. No, sir.

Q. It is just a slip of paper with the man's name on it?—A. Yes.

Q. And after that man leaves the room that slip is torn up?—A. Yes; and when a man takes his place in the room another slip is put in.

Q. Any men that you have presented here to-day living at your hotel; and if so, how many of them? Name any of the men that are there now.—A. The men summoned here?

Q. No. I am asking you how many of the names on that list a year ago are living at your house now?—A. (Witness goes through the slips and indicates names of men.)

Q. Three men, Anderson, Wildgrest, Bowers?—A. He is away on vacation [indicating], but will be home in time.

Q. Time to vote?—A. I don't know. Strouse is there. Tobey is there. This man [indicating] is at the front. This man [indicating] is here. Thomas Corcoran is here.

(Witness goes through the cards and picks out those who are in the house now.)

Q. In other words, the following men are living in your house now—what about this fellow here [indicating]?—A. He is in the house.

Q. And should be here if they are summoned?—A. Sure.

Q. Any others?—A. Herbert A. Munroe, Charles H. Keeshin.

Q. How many that are living at your house are summoned that you know of?—A. All of them.

Q. How many of them, I say?—A. Five; including myself.

Q. Who are they? Give me their names.—A. Henry Burke, Patrick Kane, Patrick F. Comber, Thomas Corcoran; those four and myself make five.

Q. Will you look this list over and see, or I will show you—you say Lawrence J. Fallon is stopping at your house to-day?—A. He ain't in his room; he is at his place of business.

Q. Where is his place of business?—A. Right down the street.

Q. What is his business?—A. Liquor business.

Q. In the rum business; and does he keep a room with you?—A. Yes.

Q. He lives in Cambridge, doesn't he?—A. Yes.

Q. And don't you know he is home sick in bed?—A. No.

Q. When did you last see him?—A. I talked with him yesterday in his office.

Q. And if he reports he is sick in bed he is not?—A. I don't know what he has reported, but he was in his office yesterday and I was talking with him.

Q. How many more of these men simply have a room at your place? Go over that list and pick out the man who has a room—occupies a room and pays for it and don't live there. You don't mean to say that Fallon lives at your house?—A. Not all the time.

Q. Do these other men live there all the time?—A. Yes.

Q. How many of them and give me their names? Don't try to misunderstand me. I want to find out from you the names of the men you have got living at your house all the time.—A. I am going to give them to you. Charles H. Perkins four or five months ago moved down to Revere, but he was there last April. I don't know whether he voted last year or not.

Q. Who?—A. Perkins.

Q. You never mind the voting end of it.—A. This man [indicating] is on a vacation, but he is coming back again.

Q. I am asking you about the men who are there now.—A. He is in Florida, but keeps a room there. Cyrus K. Cunningham roomed there 27 years.

Q. What is his business?—A. Conductor of Boston & Maine Railroad.

Q. Where is his home?—A. Right with me, at the Darby. Thomas Fred Mundy is gone; Thomas J. O'Connell is gone; Charles Henry McGowan is gone; John H. McGlone is away; Charles Coleman isn't there; George F. Coleman isn't there. He is down to the beach. Archie McEachern is gone; James O'Brien is gone, but he was there the 1st of April.

Q. What about these others; aren't they at your house?—A. They are all at my house.

Q. The same as Mr. Fallon?—A. Not stay there night and day.

Q. How does Mr. Fallon pay for his room?—A. By the week.

Q. Do you keep a record of what he pays?—A. Three dollars a week.

Q. For a room at your house and his own home is in Cambridge?—A. Yes, sir.

Q. And his family lives in Cambridge?—A. I presume so.

Q. Have you ever seen his wife at your house?—A. I never did, nor anybody else, because he hasn't any.

Q. He is not married?—A. No, sir.

Q. His home is in Cambridge?—A. Yes.

Q. And he lives in Cambridge with his family?—A. I don't know.

Q. Hasn't he told you?—A. No.

Q. He keeps that room in your house in order to protect his liquor license, I presume?—A. In the mornings when he opens up he has to room there and he has had a room in my house until he went to Charlestown and then he gave up there, and his partner—

Q. Who is his partner?—A. Mr. Welch.

Q. He gave up the room at your house?—A. He went over there to live, and he stayed at my house, because he and his partner took turns opening in the morning. This Mr. Connors—

Q. He is a bartender?—A. Yes.

Q. Where does he live?—A. In Cambridge.

Q. How long has he been there with you?—A. Two or three years. As soon as Welch went he came into his place.

Q. The police give you regular forms?—A. Yes.

Q. To fill out? Is this the form that was made out for you over in the Hendricks Club and brought over there to you?—A. No, sir; I never was there, and I don't think I would go there.

Q. Have you got a typewriter at your house?—A. No, sir.

Q. Where was this typewritten?—A. I got a stenographer, I think, in a building on Washington Street, upstairs.

Q. Whereabouts?—A. I couldn't tell you. I got them fixed up. Got her to draw them up for me, and another time I had a girl in the Crawford House draw them up for me.

Q. You know the name of every man in your house, don't you?—A. Yes, sir.

Q. And you are positive you gave the name of every man on the 1st of April?—A. Yes; and they made these out themselves.

Q. And you have got the name of everybody that was there?—A. Yes.

Q. Didn't slip on anybody?—A. No, sir.

Q. Tell me, then, how it was that Samuel A. Thomas got on the supplementary list?

(Objection by Mr. CALLAHAN.)

A. This man you are talking about is sitting out there on a settee, and he has lived with me there for 10 or 12 years, and he is there now and keeps a room there.

Q. Now, Mr. Hill, your son lives with you?—A. No, sir.

Q. Herbert Hill?—A. He is my brother.

Q. And he is there?—A. Yes.

Q. Is he here to-day?—A. No, sir.

Q. Where is he?—A. At work in his store. He had no summons to come here.

Q. I don't say he had. Is he a married man?—A. Yes.

Q. Where does he live?—A. With me.

Q. His wife lives there with him?—A. Yes, sir.

Q. His family?—A. No, sir; his family is all away.

Q. What do you do with the regular lists and forms provided by the police officers when they come to your house?—A. They come in and leave them in the office, but to save time and to save me trouble and them trouble I had them drawn up and left in each room. Each man made out his slip and brought it back to me, and when they come in they take the table in my room and one man calls the names, their age, their business, and this other man writes it down and copies it from these slips, and I get it perfectly right. When they get through they all say to me, "If we had arrangements like that in all places——"

Q. But I am trying to find out from you why you don't use the regular forms provided by the city of Boston and furnished to you by the police officers. Have you any objection to using the form?—A. No, sir; only I thought this would be more convenient.

Q. There is nothing on these that show when any one of these slips were made out, is there?—A. Made them out when these people were in that room on April 1 last year and this year.

Q. And you can use these slips from year to year?—A. When those fellows go away I don't put them in. I make out a new slip for each year. I don't use these old slips.

Q. You could use them by simply changing the names and the 6 to a 7?—A. I could do that.

Q. You did do it in this case, didn't you [showing slip to witness]? This is the slip of 1916 changed to 1917?—A. No, sir.

Q. What is it?—A. Residence April 1, 1917, was in Worcester [witness reading from slip]; residence April 1, 1918, 39 Cambridge Street.

Q. Here is another one changed from a 6 to a 7 [showing slip to witness].—A. Daniel T. Bickford; he is here now.

Q. Here is another one changed [showing slip to witness].—A. Arthur D. George; yes; I used that the year before.

Q. That 7 is different from the 8 and made by a different hand?—A. I don't know anything about that.

Q. That 7 is made by a different hand from the rest of the page?—A. Yes.

Q. Did you do it? In other words, you are making out some of these slips, aren't you, instead of the men? Have you changed that number stating where that man lived on the 1st of April?—A. Yes, sir.

Q. It was originally written up here 1916 [indicating]?—A. Not there; no, sir. I had that done and filled them in, and they did that [indicating].

Q. Which did they do?—A. That and that and that [indicating].

Q. In other words, these men only filled in their names; their residence as of April 1; their age and their occupation; that is true, isn't it?—A. Yes, sir.

Q. The rest of it you filled out? You were the one that filled in where they lived on the 1st of April on the other years? You were the one who filled that in?—A. If they weren't there, I would not have filled them out.

Q. You are the fellow who did it? The men didn't write that they lived there on the 1st of April the year before that? You are the man who wrote it in, aren't you?—A. Yes, sir.

Q. That is written in there by you, isn't it [indicating]?—A. What?

Q. Down here, referring to this I am pointing to, "residence April 1, 1918"—A. 1917; they were there and they are there now.

Q. You wrote that in?—A. For them to fill out.

Q. Referring to their place of residence, you wrote that?—A. Yes, sir.

Q. Place of residence the year prior in all these slips you wrote in yourself, didn't you?—A. Why I filled it out because these men were there and honestly voted. It was honestly so. There was no trick in it; there was no occasion for it.

Q. You could have filled in all the rest of it the same way?—A. If it was proper to do so.

Q. Wasn't it just as proper to do so as to fill out the rest of it?—A. By putting their addresses as living at your place the year before they would be carried on the voting list without anything further to be done?—A. If I wanted to be crooked—

Q. I am not talking about anything crooked; you knew that to be a fact?—A. No.

Q. Don't you know that if anyone is carried from year to year there is no need of registering again? Don't you know that? Can you answer my question? Don't you know that if a name is carried from year to year there is no need for him to go to the city hall to be registered?—A. What do they come and get them for then. I didn't know that men had to go and get registered.

Q. Why do you carry their place of residence the year before if not for that purpose?

(Interruption by Mr. CALLAHAN.)

Cross-examination by Mr. CALLAHAN:

Q. There are over 40 of these [referring to slips produced by witness]?—A. I think he [Mr. O'Connell] made it 43.

Q. And all the men are voters on that list? You don't know whether these men go register or not, do you?—A. No.

Q. You simply hand these in?—A. I hand them in. They bring those slips in and I hand them to the police officers to read over.

Q. As a matter of fact, the police don't give you any slips to fill out?—A. No.

Q. The lists are given either by the Democratic or Republican committees as a convenience for people; that is true, isn't it?—A. Once I found two or three on my desk and it said, "Please have it ready when the policeman calls for it."

Q. Are you a Democrat or a Republican?—A. I am a Republican, clean through.

Q. And have always voted the Republican ticket?—A. Since 1869.

Q. And have no affiliations with Democrats?—A. Not a bit of it, and wouldn't have.

Q. You wouldn't?—A. You bet I wouldn't.

Questions by Mr. O'CONNELL:

Q. Mr. Hill, this is the truth, isn't it, that the paper that is submitted to you by the police, the blank form on which the names are to be written has a penalty written and printed on it that for any false information given on that particular form that the party giving it is to be punished; that is true, isn't it?—A. Yes.

Q. And is it so that those men won't see that penalty and so they won't be guilty of it so far as they know, that you have printed this private form?—A. No; not for that. I never gave it a thought.

Q. These rooms that are rented by the week, are they rented by others during the absence of these parties?—A. If I have a room empty I let it.

Q. Don't you keep a register to-day?—A. I do not. I have a small one now.

Q. You have got a register?—A. I don't keep any transients and I don't want them.

Q. Have you a register to-day?—A. I have.

Q. And how long have you had it?—A. A couple of months.

Q. When did you get it?—A. A couple of months ago.

Q. Didn't you get it last August at the time of the true-name bill?—A. No.

Q. Have you been running your lodging house down there up to a couple of months ago and not complying with the true-name law?—A. When I let a room, I put it down on my check book.

Q. Don't you understand my question? Have you been running that place down there since last August without a register?—A. Yes.

Q. Without keeping the names of the roomers?—A. I have the names of the roomers.

Q. Have you got a register that keeps those names?—A. I have now, but not until within a couple of months.

Questions by Mr. CALLAHAN:

Q. You say you don't care for transients? It is a regular family hotel?—A. Yes.

Mr. O'CONNELL. Got any families down there?

A. No; roomers.

Q. Have any women living in the house?—A. I have, two.

Q. Who are they?—A. My brother's wife and Mr. Strouse's wife.

JEAN CAMPBELL sworn:

Questions by Mr. O'CONNELL:

Q. What is your name?—A. Jean Campbell.

Q. Where do you live?—A. 22 Kingsdale Street, Dorchester.

Q. How long have you lived there?—A. Two years.

Q. Before that, where did you live?—A. I do nursing, and live in different places.

Q. For instance?—A. Somerville.

Q. Did you ever live at 30 Hawkins Street?—A. Never.

Q. Did you ever know of your brother living at 30 Hawkins Street?—A. No; I never had a brother living there.

Q. You have a brother, William C. Campbell?—A. Yes.

Q. And has he lived with you at any time?—A. For a short time, two years ago.

Q. And where was that?—A. 22 Kingsdale Street, Dorchester.

Q. He is a married man, is he?—A. Yes.

Q. Any children?—A. No children.

Q. What is his business?—A. He is in the automobile business.

Q. Where is his place of business?—A. Nova Scotia.

Q. How long since he has gone to Nova Scotia?—A. He went, I think, the latter part of April or first of May.

Q. And has he been back since?—A. No; not since.

Q. Will you tell me how old your brother is?—A. Fifty-two years old.

Q. Can you describe his build?—A. I don't know just what his height is.

Q. Taller than you?—A. Taller, and weights about 180.

Q. About 180?—A. 170 or 180.

Q. Black or fair?—A. Medium.

Q. You never lived at 30 Hawkins Street?—A. Never.

Q. Neither has your brother?—A. Not to my knowledge.

Q. Did you ever know of his voting from 30 Hawkins Street?—A. Not to my knowledge.

Q. The 1st of last April he was living with you on Kingsdale Street, Dorchester?—A. Yes.

Q. Did you give his name to the police at that time?—A. I have since.

Q. Do you know when you gave it to them?—A. No; I don't remember.

Q. Was it about that time?—A. I don't remember when.

Q. At the time the policeman came around to get names for the voting list, did you give his name at that time?—A. I don't think I did at that time. I think I did later on.

Q. That would be around the first week of April?—A. I don't remember that I did at that time.

Q. Do you think you did later on?—A. I wouldn't later on, because he was not living there after that.

Q. I thought I understood you to say you did give it?—A. Not since he went home.

Cross-examination:

Q. Now, will you give us the height of your brother, please?—A. I don't know exactly what his height is.

Q. Is he about 5 feet 10 or 5 feet 11?—A. Would be about that—5 feet 10 or 11, I should judge.

JEAN M. CAMPBELL.

AFTERNOON SESSION, 2 P. M.

Mr. BERMAN. The hearing will now be resumed.

GEORGE W. HILL, recalled:

Redirect examination by Mr. O'CONNELL:

Q. Mr. Hill, you are the Mr. Hill that was on the stand yesterday noontime?—

A. Yes.

Q. And I asked you to bring those records you have back. Have you got them with you?—A. They are right here.

Mr. O'CONNELL. I want to introduce those records.

Mr. CALLAHAN. They are here.

The WITNESS. I don't know whether they were written off or not.

Mr. CALLAHAN. Don't you remember, Mr. Hill, the two stenographers copied them here, and they copied off your notes?

The WITNESS. Yes; after everybody else had gone.

Mr. O'CONNELL. I want to introduce them anyway.

Q. They are what you use for voting purposes?—A. In my house; yes.

Q. And they are not a hotel register?—A. Oh, no; oh, no.

Q. Now, I want to ask you about where you vote. Where do you vote?—A. Down in that ward.

Q. Ward 5, precinct 8; is it?—A. Yes.

Q. You live in Cambridge?—A. No, sir.

Q. Do you know where 11 Everett Street, Cambridge, is?—A. Yes, sir.

Q. Who lives there?—A. My daughter, Mrs. Woollard.

Q. Your name is in the Cambridge directory as living at 11 Everett Street, isn't it?—A. If it is, I didn't know it; my telephone, if you have got that. There's a telephone at my daughter's in my name.

Q. So your name is in the telephone directory at Cambridge?—A. Yes, sir.

Q. What is the number?—A. 4761-M.

Mr. BERMAN. Cambridge?

The WITNESS. Yes, sir.

Q. It is at that house; 11 Everett Street?—A. Yes. Eleven Everett Street my daughter lives.

Q. And you go there how often in the week?—A. I generally go over there every Sunday to dinner.

Q. You own the house?—A. No.

Q. Who does?—A. I pay my check to George L. True.

Q. Who is he?—A. I don't know; I never saw him in my life.

Q. He is the landlord?—A. Yes; he owns it.

Q. So you pay each month?—A. I pay each month for that flat.

Q. Been out at that house three and a half years?—A. About that, I guess.

Q. You occupy a suite on the third floor?—A. The second floor. Listen, I had two daughters, and had two suites; they were both married—

Q. Yes.—A. And one, three weeks ago, passed away; so they took that flat out.

Q. I see. Up to that time you lived on the third floor?—A. They did. I didn't.

Q. You stayed on the third floor?—A. I never slept in the house in my life.

Q. They are married?—A. Yes.

Q. Before living there, you lived on Massachusetts Avenue, in Cambridge?—A. Yes; I lived at the Cantabrigia, I think they call it.

Q. How long did you live there?—A. A year or so. Lived at the Majestic; lived on Linnaean Street, and Avon Street, and on Everett Street, they did; my daughters.

Q. Did you pay the rent at all these places?—A. Every dollar paid; I pay.

Q. I see. Do you know True's address?—A. I never saw the man in my life. I pay right by check.

Q. He owns 11 Everett Street, Cambridge?—A. Yes.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. Now, Mr. Hill—

Mr. O'CONNELL. I now offer these [indicating papers brought by Mr. Hill].

Cross-examination by Mr. CALLAHAN:

Q. Those are records you have for your own convenience, are they?—A. Yes, sir.

Q. And you desire to keep them in your possession?—A. Yes, I have.

Q. You, sir, desire to keep them in your possession?—A. I don't want them.

Q. Don't you care about them?—A. No; burn them up, if you want to.

Mr. O'CONNELL. I offer these [indicating papers]: List of voters from Mr. Hill's hotel marked "Exhibit 57."

Q. Do you want to give us the envelope, too, Mr. Hill?—A. Why, yes; I want to get rid of that. The reason I have them it is a convenience to the officers when they come to get the names.

Q. You had them all right?—A. Yes.

Q. Now, Mr. Hill, I understand you maintain this home in Cambridge——A. Yes.

Q. For your daughter?—A. Yes.

Q. And you pay the bills for her?—A. I do.

Q. You never slept in that house yourself?—A. Never.

Q. And in the different places she has lived in Cambridge you never slept there?—A. No, sir.

Q. Always slept and lived at the——A. Derby House.

Q. You own that?—A. What?

Q. The Derby?—A. No; I lease it.

Q. And that's your business?—A. My business for a good many years.

Q. I think I asked you yesterday, but I will ask you again, you say you are a Republican?—A. Yes, sir.

Q. You don't vote in the Democratic primary?—A. Not much.

Q. Did you ever?—A. Never.

Q. And you didn't vote in the Democratic primary last fall?—A. I never voted in my life.

Q. Never voted the Democratic ticket?—A. No, sir.

Q. You wouldn't do it?—A. No, 'sir.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. That's all.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss.:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of *Peter F. Tague v. John F. Fitzgerald* having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

DORA H. BARNES.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Dora H. Barnes and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss.:

I hereby certify that the foregoing in this volume, containing about 46 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of *Peter F. Tague v. John F. Fitzgerald* beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN, *Notary Public.*

BOSTON, MASS., *May 5, 1919.*

Afternoon session at 421 Federal Building.

Deposition of HENRY A. BURKE:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Henry A. Burke.

Q. And your residence?—A. No. 39 Cambridge Street.

Q. What is the name of that place?—A. The Derby House.

Q. Are you married?—A. No, sir.

- Q. Where do you work?—A. Navy yard.
 Q. And where do your folks live?—A. Cambridge.
 Q. What part of Cambridge?—A. East Cambridge.
 Q. What street?—A. No. 121 Thorndike Street.
 Q. Your father lives there?—A. Yes, sir.
 Q. Your mother lives there?—A. No, sir.
 Q. The rest of the family?—A. No, sir.
 Q. Your sisters?—A. No sisters.
 Q. Does your father live there alone?—A. No; he is married again.
 Q. And you have spent some time with your father in the house?—A. I have not seen him in two years.
 Q. Haven't you been in the house?—A. No.
 Q. Where else do you live besides the Derby House?—A. That is the only house I can afford to live.
 Q. Where else do you live? Do you stay there every night?—A. Yes, seven nights a week.
 Q. You did not stop at any other place during the last two years?—A. No; unless I was down to the beach.
 Q. That would be in the summer time?—A. Yes.
 Q. How long would you stay at the beach?—A. Overnight, or something like that.
 Q. Do I understand you to say you lived at the Derby House? How long have you lived there?—A. Since I first went there.
 Q. How long is that?—A. About a year and a half.
 Q. When did you first go there?—A. About a year ago last September.
 Q. You pay your bill by the week?—A. Yes, sir.
 Q. How much a week do you pay?—A. Four dollars.
 Mr. O'CONNELL. That is all.
 Mr. CALLAHAN. No questions.

Deposition of DANIEL CONNORS:

Direct examination by Mr. O'CONNELL:

- Q. What is your name?—A. Daniel Connors.
 Q. Where do you vote from?—A. Ward 5, Derby House.
 Q. What precinct?—A. Precinct 8.
 Q. How many years have you been voting from the Derby House?—A. Three years.
 Q. And before that, where did you vote from?—A. I voted in Watertown before that.
 Q. You are in the liquor business?—A. Yes.
 Q. Where is your place of business?—A. Nos. 31 and 33 Cambridge Street.
 Q. That is under the Derby House?—A. Yes.
 Q. And you take a room in the Derby House in order to be convenient for opening up some mornings?—A. Yes.
 Q. You don't stay there through the year?—A. Most of the time.
 Q. Your home, where your belongings are, is in Watertown?—A. No.
 Q. Where else do you go?—A. I go to my sister's.
 Q. Where is that?—A. In Watertown.
 Q. And you have lived in Watertown a great many years?—A. Probably 10.
 Q. Watertown is a no-license town?—A. Yes.
 Q. And, of course, being in the liquor business, you are interested in having Boston go license?—A. Yes, sir.
 Q. Are you on the license?—A. No; I am not. I am just a bartender.
 Q. And you are interested in having Boston go license?—A. Oh, yes.
 Q. And that is one of the reasons why you stop at the Derby House?—A. Yes.
 Q. And prior to becoming a bartender in Boston, where were you working?—A. Well, I have been a bartender about 24 years.
 Q. Prior to coming to 31 Cambridge Street, where were you working?—A. Worked for T. J. Quatters farther down Cambridge Street.
 Q. And there is no hotel in connection with Quatters's place?—A. No; just a lodging house upstairs.
 Q. You are not a married man?—A. No.
 Q. You support your sister?—A. No; I don't support her. She is married. I occasionally give her something.
 Q. You pay her regularly?—A. No; I don't.
 Q. What do you mean?—A. When I do see her, I pay her for my meals.

- Q. When do you pay her?—A. Pay her Sundays if I go out there.
- Q. Do you mean to say you pay your sister every time you go out there?—A. No.
- Q. In other words, you pay your sister a regular sum, don't you?—A. A regular sum? No; I don't.
- Q. And do you mean to tell us that you pay your sister for every meal you eat there?—A. Suppose I go there Saturday night and stay over Sunday.
- Q. Do you mean to say you pay your sister for them?—A. I give her something at the end of the month for her trouble.
- Q. Give her something at the end of every month?—A. Not every month.
- Q. Since you have been away?—A. No.
- Q. Do you pay her every time you go there?—A. No.
- Q. I thought you said you did.—A. No; it was a mistake. I get a lot of other things done besides.
- Q. What do you get there?—A. A few meals and I get my clothes laundered.
- Q. What else?—A. That is about all.
- Q. Keep your clothes there, I suppose?—A. Some of them. Not all of them, underclothes.
- Q. Your underclothes?—A. Yes.
- Q. You sleep in the same room whenever you sleep at your sister's?—A. Oh, yes.
- Q. That is what they call your room?—A. I don't know if they call it my room.
- Q. You go to it as your room?—A. When I am there; yes.
- Q. And that is where you keep some of your things?—A. Oh, yes.
- Q. And you have been doing that for three years or more?—A. Yes.
- Q. How many years did you say you had been doing that?—A. Well, about, probably six years or seven or more.
- Mr. O'CONNELL. That is all.
- Mr. CALLAHAN. No questions.

DANIEL CONNORS.

Deposition of TIMOTHY W. CORKERY:

Direct examination by Mr. O'CONNELL.

- Q. What is your full name?—A. Timothy W. Corkery.
- Q. Where do you live?—A. No. 143 Court Street.
- Q. What is the name of that place?—A. The Hotel Royal.
- Q. What is your business?—A. I am an ironworker.
- Q. Where do you work?—A. Warren Bros. Construction Co.
- Q. What is the number of your room at the Hotel Royal?—A. Room B.
- Q. What floor is that on?—A. The first floor.
- Q. Where else do you live besides the Hotel Royal?—A. No place.
- Q. Have you lived there long?—A. Seven years.
- Mr. O'CONNELL. That is all.
- Mr. CALLAHAN. No questions.

Deposition of JOHN W. NORTON:

Direct examination by Mr. O'CONNELL:

- Q. What is your name?—A. John W. Norton.
- Q. You are the proprietor of the Hotel Royal?—A. No, sir.
- Q. What are you?—A. The day clerk.
- Q. Have you got with you the register of the Hotel Royal?—A. No; I have not.
- Q. Where is it?—A. It is in the office, locked up. Anybody can see it any time the police come there.
- Q. Would that be the register for last April?—A. They have two lockers and have 30 or 40 registers.
- Q. Who can get them?—A. The boss, when he comes home.
- Q. Who is the boss?—A. Dearborn.
- Q. What is his full name?—A. C. H. Dearborn.
- Q. Is he the only one that goes into the locker?—A. Unless they broke it.
- Q. When will he come home?—A. Look for him any day.
- Q. When do you expect him?—A. I could not say.
- Q. Where does he live?—A. Somerville.
- Q. Somerville is just across the river?—A. Yes.

Q. Where is he?—A. He may be down east. I don't know. I don't see him more than once or twice a month.

Q. Who has access to this vault or locker where these registers are?—A. I suppose he does.

Q. Anybody else?—A. Not that I know of.

Q. In his absence, how do you go to that locker?—A. Never had to go to it before. I never had any occasion.

Q. Have you been talking to him about it?—A. No, sir.

Q. When did you last see him?—A. About a week ago.

Q. How are we going to get these lists?—A. I will try to-morrow. I did not know to-day he was not going to be home and I will try to-morrow, or bust it.

Q. Will you come to-morrow?—A. Yes.

Q. What time?—A. Any time. I go on at half past 7.

Q. Can you come at halfpast 10?—A. Somewheres in that neighborhood.

THURSDAY, MARCH 6, 1919, MORNING SESSION.

JOHN W. NORTON, recalled:

Redirect examination by Mr. O'CONNELL:

Q. You are John W. Norton?—A. Yes.

Q. Were you on the stand shortly before adjournment last night?—A. Yes.

Q. And the hearing was suspended to allow you to find out if you could get the register of the Hotel Royal for April of last year?—A. Yes.

Q. What are you able to tell us about this register?—A. I looked for them last night and again this morning. I saw the housekeeper and she got the houseman to cut up a lot of them about a month ago, or six weeks ago. They were painting and papering and the houseman said he took some of them out with some other books, and he thought he saw them in the press afterwards.

Q. By the press you mean the waste-paper press?—A. The waste-paper press.

Q. And that is the place where waste paper is pressed and then sold?—A. Yes.

Q. And that was done sometime ago?—A. About six weeks ago.

Q. And these books were thrown in?—A. I think possibly it was one that went there.

Q. Would you have been able to find it elsewhere?—A. I would have been able to find it elsewhere.

Q. Mr. Norton, you live in Charlestown?—A. Used to.

Q. Where?—A. 387 Main Street or 394 Main Street.

Q. You have been living there during the past year?—A. No; I have not roomed there for over two years; since two years ago last July I have been away.

Q. Haven't you gone over to Charlestown since that time?—A. Quite often.

Q. Quite often?—A. Yes.

Q. Who lives there?—A. Go over often nights. There is the barber shop, Wiley, and some friends of mine.

Q. What house did you live in in Charlestown?—A. Lived with Putnam. He works for Wild, the furniture man.

Q. And you used to stop with him?—A. Yes.

Q. How many years?—A. I may have stopped there a year and a half.

Q. You keep some of your clothes over there?—A. I have got a trunk I have never taken away. That is all.

Q. Your trunk is there?—A. Yes.

Q. You haven't got any trunk at the Hotel Royal?—A. I have got two grips.

Q. But your trunk, your permanent and heavy stuff, is in Charlestown?—A. I haven't much in the trunk.

Q. It is in Charlestown in the room—— A. Not the room.

Q. In the house where you used to be?—A. Yes.

Cross-examination by Mr. CALLAHAN:

Q. You are at the Hotel Royal now?—A. Yes, sir.

Q. Doing what?—A. Day clerk.

Q. Day clerk?—A. Yes, sir.

Q. You slept there last night?—A. Yes, sir.

Q. You are not married?—A. Yes, sir.

Q. Have you any family?—A. I have a daughter.

Q. How old are you?—A. Sixty-five.

Q. And that is your permanent home?—A. Yes, sir.

Q. Since the 1st of April last year?—A. Last seven years.

Q. You have no connection with politics in that district?—A. No, sir; no part of it.

J. W. NORTON.

Deposition of ROBERT C. LEVISON:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Robert C. Levison.

Q. How old are you?—A. Thirty-seven.

Q. And where do you vote from?—A. I voted this year from the West End, ward 5.

Q. Where did you vote last year?—A. Ward 23.

Q. What street did you live on?—A. 156 Lagrange Street, Roxbury.

Q. Are you married or single?—A. Married.

Q. Any children?—A. No.

Q. Where does your wife live?—A. Now I am married. I have been married in the West End last year.

Q. Where do you live?—A. The West End.

Q. Where do you live in the West End?—A. 337 Charles Street.

Q. Where did you vote from?—A. Boston.

Q. What address?—A. 13 Chambers Street.

Q. 13 Chambers Street. Who runs that house?—A. I don't know who owns it.

Q. How long did you live there?—A. A week.

Q. What week was it?—A. The first week in April.

Q. When did you go there?—A. I started in there on Saturday.

Q. When did you leave?—A. I left the next Saturday.

Q. Who did you pay rent to?—A. A lady.

Q. Know her name?—A. No.

Q. Where did you live the day before you went there?—A. The day before I lived in West Roxbury.

Q. West Roxbury?—A. Yes.

Q. How long had you been living at West Roxbury?—A. I had been living in West Roxbury off and on 10 years.

Q. And after leaving this house the following Saturday night after you entered it, where did you go?—A. Beacon Chambers.

Q. How long did you stay there?—A. A little while.

Q. Beacon Chambers is not in ward 5?—A. Yes.

Q. So you stayed in ward 5 just that week?—A. Yes.

Q. I suppose that was for the purpose of being able to vote down there in that ward?—A. Not for that purpose.

Q. You registered there for what purpose?—A. To be near the shop, 5 Chambers and 99 Cambridge Streets.

Q. Well, did you have a home out on Lagrange Street, Roxbury?—A. No, sir.

Q. Who were you rooming with out there?—A. My brother.

Q. How long did you stay with your brother?—A. I stayed with him off and on. I used to stay sometimes in that room.

Q. How long had you been there altogether?—A. Altogether I have been there four years.

Q. And now you are married, you are living downtown here?—A. Yes.

Q. You don't know the name of the party from whom you hired the room?—

A. I know her if I see her and she knows me, but I don't know her name.

Q. And you think you went down Saturday night?—A. The Saturday night before the 1st of April.

Q. And if Sunday was April 1, you were there on the night of the 31st of March?—A. The 31st of March. I hired it on Saturday night and intended to stay longer, but did not like the place.

Q. And you were there from Saturday to Saturday?—A. Yes.

Cross-examination by Mr. CALLAHAN:

Q. You stayed there a week, and then you moved to Beacon Chambers?—A. Moved to Beacon Chambers.

Q. And that is only a short way up?—A. It is only a short way up; so I could be near the shop.

Q. And ever since you have been in the West End?—A. I have been ever since. That is, I have been for a little while with my brother, and then went back to the West End.

Q. And then you continued to live at the West End?—A. Yes.

Q. And it is your home now?—A. Yes.

Q. When did you get married?—A. Last August.

Q. And you were unmarried in April of last year?—A. Unmarried.

Redirect examination by Mr. O'CONNELL:

Q. The Beacon Chambers you spoke of is in ward 8, another ward?—A. I don't know. Don't pay much attention to politics.

Q. Where are you living now?—A. 337 Charles Street, corner of Poplar.

Q. Is that in ward 5?

Mr. CALLAHAN. It is in ward 5.

Deposition of CHARLES T. COGAN:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Charles T. Cogan.

Q. How old are you?—A. Forty-seven.

Q. When were you 47?—A. Last October.

Q. What is your business?—A. Boston & Maine Railroad.

Q. Where do you live?—A. Hotel Bowdoin.

Q. Are you married?—A. Single.

Q. Any family?—A. No.

Q. Where do you live besides the Hotel Bowdoin?—A. Nowhere.

Q. Live there all the time?—A. For the last 10 years.

Q. Do you live there all through the year?—A. No other place.

Q. What is the number of your room?—A. 29.

Q. You have lived there how long?—A. Ten years.

Mr. O'CONNELL. That is all.

Mr. CALLAHAN. No questions.

CHARLES T. COGAN.

Deposition of THOMAS LAWTON:

Direct examination by Mr. O'CONNELL:

Q. What is your name?—A. Thomas Lawton.

Q. How old are you?—A. Sixty-one.

Q. Do you vote over there?—A. I have voted here the last 30 years.

Q. Are you married?—A. No, sir.

Q. Any children?—A. No, sir.

Q. Know John I. Fitzgerald over there?—A. What?

Q. Do you know this man up here, John I. Fitzgerald?—A. I saw him this morning for the first time.

Q. Were you talking with him?—A. No.

Q. Do you know Mancovitz?—A. He sent me up here.

Q. He sent you up here. Where do you live?—A. Revere House.

Q. How long have you lived at the Revere House?—A. Thirty-two years.

Q. What is the number of your room?—A. The number of my room? 440. I work there.

Q. You work there?—A. Yes.

Q. Where else do you work?—A. I am houseman.

Q. What do you mean?—A. Houseman.

Q. What do you do?—A. All kinds of work.

Q. What kind?—A. Wash windows, laundry work.

Q. What else do you do?—A. Nothing.

Q. Do you know Capt. Harrison?—A. Yes, sir.

Q. Seen him today?—A. I am working for him.

Q. See Mossman?—A. Yes.

Q. Talking with him today?—A. I don't speak to any of them.

Deposition of THOMAS H. COCHRANE:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Thomas H. Cochrane.

Q. Where do you live?—A. No. 39 Cambridge Street.

Q. What is your business?—A. I am an emblem salesman.

Q. For whom do you work?—A. Myself.

Q. Where does your wife live?—A. Brockton.

Q. You are not separated from her?—A. No, sir.

Q. How long has she lived in Brockton?—A. All her life.

Q. You furnish the house she lives in?—A. No.

Q. Who does?—A. She lives with her sister.

- Q. And you go there quite frequently?—A. Once in a while.
 Q. And you are on friendly terms?—A. Yes.
 Q. Just as friendly as you ever were?—A. Yes.
 Q. And the relation of man and wife exists just the same as between any husband and wife?—A. Yes.
 Q. She never has lived at the Derby House?—A. No, sir.
 Q. That is where you said you stopped?—A. Lived there 20 years.
 Q. You say you work for yourself?—A. Yes, sir.
 Q. Where is your place of business?—A. I do business right there. That is my headquarters.
 Q. That is, you have people come to your room there?—A. Some.
 Q. You travel out from there?—A. Yes, sir.
 Q. And see your wife how often?—A. That I can't tell. Every month or two.
 Q. You have no children?—A. Yes.
 Q. How many children have you?—A. One.
 Q. How old is this child?—A. Thirty-five.
 Q. Where does he live?—A. Right there with his mother.
 Q. So your wife and child live in Brockton?—A. Yes, sir.
 Q. And you have your place of business at the Derby House?—A. Yes, sir.
 Q. And took up your residence from there and vote from there?—A. Always.
 Q. You contribute, I suppose, to the support of your wife?—A. Certainly.
 Q. And have ever since you were married?—A. Always.

Cross-examination by Mr. CALLAHAN:

- Q. You say you do your business from the Derby House?—A. Yes, sir.
 Q. And you have been doing it for how many years?—A. In this business for seven years. I have roomed there 17 years. I have not been in this business only about seven or eight years.
 Q. You are a traveling man?—A. Yes, sir.
 Q. And when you come to Boston that is your home?—A. Always.
 Q. And on the first of April you were there?—A. Been there a good many years.
 Q. You considered that your home there, the Derby House?—A. Yes, sir.
 Q. You have not any interest in politics in this city?—A. It is nothing to me.
 Q. You don't know Mr. Lomasney or John F. Fitzgerald?—A. No, sir.
 Q. You have no interest in them?—A. No, sir.
 Q. Anybody connected with them ask you to vote for them?

Re-direct examination by Mr. O'CONNELL:

- Q. Didn't you vote the Democratic ticket?—A. I didn't take particular notice.
 Q. Did you ever vote in Brockton?—A. Yes, I was born in Brockton.
 Q. How long did you vote there?—A. Eighteen years ago.
 Q. Live there up to that time?—A. No; I left there 20 years ago.
 Q. You have been voting in Boston how many years?—A. 1905 was the first time I voted in Boston.
 Q. And you have been voting in ward 5 right along?—A. Yes, sir.
 Q. Your wife and child have never lived at the Derby House?—A. No, sir.

Recross examination by Mr. CALLAHAN:

- Q. When he says your wife and child—you have a son 35 years old?—A. Yes, sir.
 Q. And that is what he means by your child?
 Mr. HARRINGTON. He is not anybody else's child.

THOMAS H. CORCORAN.

Deposition of PATRICK F. COMBER:

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Patrick F. Comber.
 Q. How old are you?—A. Fifty.
 Q. And what is your business?—A. Bookkeeper.
 Q. Where do you work?—A. 65 Chestnut Street, Boston.
 Q. For whom?—A. C. H. Smith.
 Q. And you vote from the Derby House?—A. Yes.
 Q. Where do you vote?—A. Ward 5.
 Q. How long have you been voting there?—A. A number of years.
 Q. Where do you live?—A. No. 39 Cambridge Street.
 Q. How long have you lived there?—A. Twenty or twenty-two years.

Q. Lived there all the time?—A. Lived there all the time except when away on a vacation.

Q. You are not married?—A. Not married.

Q. No family? —A. No family.

Q. And that is your permanent home?—A. Yes, sir.

Q. Don't live elsewhere at all?—A. No, sir.

Q. Have you a father or mother living near Boston?—A. No; both dead.

Q. Have you any brothers or sisters you live with?—A. No; they live in Lawrence. They are married.

Mr. O'CONNELL. That is all.

Mr. CALLAHAN. No questions.

Deposition of PATRICK H. KANE:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Patrick H. Kane.

Q. And you are a bartender?—A. Yes, sir.

Q. For whom do you work?—A. American House, East Boston.

Q. And your folks come from where—Lawrence?—A. No; a brother in Lynn and one sister in Salem.

Q. Do you spend some time with your sister in Salem?—A. No.

Q. How often do you go there?—A. I haven't been down there for a month, or two months.

Q. Do you go to your other folks in Lynn?—A. Once in a while.

Q. Where do your father and mother live?—A. Live in Lynn.

Q. Any brothers and sisters living with them?—A. Father and mother are dead.

Q. I thought you said they lived in Lynn?—A. They did live in Lynn.

Q. How many live in Lynn?—A. A sister and brother.

Q. Did you live with them?—A. I did.

Q. From when?—A. Five or six years.

Q. That was when you came to Boston to be a bartender?—A. I lived in Lynn.

Q. You are interested in seeing Boston go license?—A. I was on the license with John T. Philbin.

Q. So in order to protect Philbin on the license you must be a voter?—A. I was in Boston before I went on the license.

Q. Isn't that one of your reasons for living in Boston?—A. No; I was in Boston before that.

Q. Has the American House, East Boston, got any rooms?—A. Yes, sir.

Q. Have you any connection with the ward 5 organization that makes you come over to Boston from East Boston?—A. No; always roomed there.

Q. For whom were you working that you were on the license?—A. John T. Philbin.

Q. Where is that?—A. Corner of Province Street and Province Court.

Q. That is in ward 5?—A. Yes.

Q. Where does Philbin live?—A. Philbin, I believe, lives in Swampscott, where he has moved lately.

Q. And it was to protect him you wanted to become a Boston man?—A. Yes, sir.

Q. Did you have any interest in the license?—A. Yes, sir.

Q. And you, being a Boston man, he put you on the license?—A. Yes, sir. He has a wife and family in Swampscott.

Q. So he used you?—A. I don't like the word "used me."

Q. Where does he live?—A. Claims he lives in Swampscott.

Q. How can he vote in Boston if he lives in Swampscott?—A. That is what I want to know.

Q. You never looked up to find out?—A. No.

Q. And you were ostensibly his partner on the license?—A. Not now.

Q. When you were on the license?—A. Yes.

Q. Don't know where he lived in Boston?—A. No.

Q. Or where he was voting from?—A. No.

Q. How often do you visit your sister in Salem?—A. Oh, I go down there once a month.

Q. Do you contribute to her support down there?—A. No.

Q. Either one?—A. One in Salem. There is only one sister in Salem. A brother and sister in Lynn.

- Q. Do you contribute to the support of your sister in Lynn?—A. Sometimes.
 Q. Where does she live?—A. Broad Street.
 Q. What number?—A. I don't know.
 Q. You don't know the number of the street?—A. No.
 Q. How often do you go there?—A. Been there once or twice since she has been there.
 Q. How long has she been there?—A. A few months.
 Q. Where did she live before that?—A. With my other sister.
 Q. Where does she live?—A. No. 2 Smith Avenue.

Cross-examination by Mr. CALLAHAN:

- Q. You have lived steadily in this house for five or six years?—A. Yes, sir.
 Q. The same place?—A. The same place, same room.
 Q. And you are unmarried?—A. Unmarried.

Deposition of LAWRENCE J. FALLON:

Direct examination by Mr. O'CONNELL:

- Q. What is your full name?—A. Lawrence J. Fallon.
 Q. Where do you live?—A. No. 39 Cambridge Street.
 Q. Your home is in Cambridge?—A. No, sir.
 Q. How much of the time are you in Cambridge?—A. Very little of the time until I got sick.
 Q. Where do you go when you go to Cambridge?—A. My sister's house.
 Q. You have a room in your sister's house?—A. No.
 Q. What is your sister's name?—A. Connolly.
 Q. Are you a married man?—A. No, sir.
 Q. Have you a family?—A. No, sir.
 Q. How much of a family has your sister got?—A. One boy.
 Q. And if your sister says you had lived with her she is mistaken?—A. Yes, sir.
 Q. You are in the liquor business?—A. Yes, sir.
 Q. The same place on Cambridge Street where the Derby House is situated?—A. Yes, sir.
 Q. How long have you been at the Derby House?—A. Fifteen or 16 years.
 Q. Are you the proprietor of this liquor saloon?—A. Yes, sir.
 Q. How many men do you have as liquor salesmen?—A. I have three at present.
 Q. And you are interested, of course, in seeing Boston go license?—A. Yes, sir.
 Q. Prior to coming to Boston and going into the liquor business, where did you live?—A. Cambridge.
 Q. Where, in Cambridge, did you live?—A. Brookline Street.
 Q. How many years did you live on Brookline Street?—A. All the time I lived on Brookline Street I lived in one place. I lived in Cambridge and lived on Brookline Street.
 Q. It is the same house where your sister lives?—A. No; they have moved lately.
 Q. Where did they move lately?—A. No. 254 Brookline Street.
 Q. That is where you have been sick lately?—A. Yes, sir.
 Q. How long were you sick?—A. Ten weeks.
 Q. Ten weeks. And that is at your sister's home?—A. Yes, sir.
 Q. How long have you owned this liquor license down there?—A. Fifteen years.
 Q. Prior to owning this liquor license, Mr. Fallon, you had lived in Cambridge?—A. I think prior to owning that I had voted in Boston three years.
 Q. Where?—A. The Derby House.
 Q. Were you interested in that license?—A. Not at all.
 Q. Were your bartender at that place?—A. Yes; worked there.
 Q. In other words, up to the time you were bartender in the Derby House you had always lived in Cambridge and voted in Cambridge?—A. Yes, sir. No; not always. I voted in Roxbury. I worked there.
 Q. What were you doing out there?—A. Tending bar.
 Q. Prior to coming to Boston and tending bar, you were voting and living in Cambridge?—A. Yes, sir.
 Q. And you have taken a room here?—A. Yes, sir.
 Q. And you were interested in seeing Boston go license?—A. Yes, sir.
 Q. And you wanted to vote here for those reasons?—A. Yes, sir.

Q. And during all these years you have gone back and forth to Cambridge practically every week?—A. Of course, I would not say every week. Of course, if I feel like having a Sunday dinner I would go over there and have a Sunday dinner with them.

Q. You help to support the home in Cambridge?—A. Always give them something.

Cross-examination by Mr. CALLAHAN :

Q. How long have you been voting in Boston?—A. Fifteen or 18 years.

Q. Fifteen or 18 years. And except these 10 weeks when you were sick you have not been at Cambridge?—A. If I feel like going to my sister's, I go there. If I feel like going to my sister's, I go there, but my home is at the Derby House.

Notary BERMAN. Have you been sworn, Mr. Witness?

The WITNESS. No; I have not.

Notary BERMAN. Do you solemnly swear that the testimony you have given in the cause now in hearing was the truth, the whole truth, and nothing but the truth, so help you God?

The WITNESS. I do.

Redirect examination by Mr. O'CONNELL :

Q. Did you tell us the truth in all your answers, just the same as if you were under oath?—A. Yes, sir.

Q. And you assumed you were under oath at that time?—A. Yes, sir.

Q. I am asking you this so I will not have to go back and go all over it again.—A. Yes, sir.

Deposition of DENNIS O'NEIL :

Cross-examination by Mr. O'CONNELL :

Q. What is your full name?—A. Dennis C. O'Neil.

Q. Where do you live, Mr. O'Neil?—A. No. 195 Havre Street, East Boston.

Q. And what is your business?—A. Employed in the Treasury Department.

Q. And you have been a representative in the State legislature from East Boston?—A. In 1910 and 1911.

Q. 1910 and 1911?—A. Yes.

Q. Do you know Representative Hearn?—A. I do.

Q. Representative from one of these wards?—A. The ward I live in; ward 2.

Q. And you know him very well?—A. Very intimately.

Q. Did you have a talk with Mr. Hearn after the last State election, with reference to the Fitzgerald-Tague fight, and if so, what was the conversation?

Mr. CALLAHAN. Note my objection to all this conversation, as hearsay evidence.

A. I did.

Q. Where was that talk?—A. Parker House.

Q. Can you tell us when that talk took place?—A. No; I forget the date, but after the State election. I met Representative Hearn and we greeted each other, I think, for the first time since the State election. I said, "Hullo, what were you doing with these phoney stickers in your pocket?" He said, "Denny, I will tell you about those phoney stickers." He said, "A fellow gave them to me. I didn't know they were phoneys." I said, "What were you doing with them in your pocket?" He said, "Well, I was giving them out to Tague men." I said, "You were for Fitz in that fight and how were you giving them out for Tague?" He said, "Lots of my friends were not going to vote for Fitzgerald and when they came to me and said, 'Where do I get a sticker?' I put my hand in my pocket and gave them that sticker as an accommodation."

Q. Did you have any further talk?—A. I can not recall just now.

Q. Did you have any talk with him as to whether or not he was particular to hand out the sticker which was not gummed?—A. He said that he had some counterfeit stickers and some of the original stickers in his pocket, and I said, "I suppose you were very careful to give the ungummed sticker to the voter who asked for it, weren't you?" He said, "No; I didn't discover the stickers did not have any glue on them until late in the afternoon, when I had given many away." I said I thought it was a pretty cheap trick, but had we learned of it early in the day we could have stopped it, and with that I think the conversation closed.

Q. Did you take a prominent part in the Tague campaign?—A. Oh, yes.

Q. And you are friendly with Mr. Tague?—A. Yes.

Q. And it is because of your resentment against the sticker proposition you spoke to Mr. Hearn?—A. That is the reason.

Q. Mr. Ahearn knew you were friendly with Mr. Tague?—A. Yes.

Cross-examination by Mr. CALLAHAN:

Q. You worked at the polls for Mr. Tague, didn't you?—A. Yes.

Q. What precinct?—A. In his local precinct.

Q. Where was Mr. Hearn?—A. Precinct 6.

Q. You had charge of Mr. Tague's local work?—A. No.

Q. Who had charge of it?—A. Learson.

Q. And you had workers at each precinct?—A. Yes.

Q. Who is Mr. Learson?—A. He is a prominent man in our district, identified in the liquor business.

Q. In the liquor business?—A. Yes; at Maverick Square.

Q. What did you say the precinct was, Mr. Ahearn was at?—A. I did not see him during the day. I think he was up in his own precinct.

Q. What precinct is that?—A. They readjusted them a few years ago and I have not that in my mind.

Q. Do you mean to tell me you don't know?—A. They are confused in my mind.

Q. Have you been confused in giving your testimony?—A. I hope I have not.

Q. Don't you know in what precinct Mr. Hearn was?—A. No.

Q. Didn't he tell you where he was?—A. I knew it was in ward 2.

Q. Did he tell you that?—A. Some of the boys told me he was at ward 2 giving out stickers.

Q. What precinct?—A. Did not specify.

Q. At any rate, you had workers at each precinct?—A. Yes.

Q. How many workers did you have?—A. Five or six.

Q. Five or six workers, and it is safe to say he had five or six workers at each precinct?—A. I presume so.

Q. That was one of Mr. Tague's strongest wards?—A. Yes.

Q. And there was a pretty strong feeling running through there?—A. Yes.

Q. So he did not have any trouble getting workers?—A. No.

Q. He did not have to pay any?—A. I don't know. He had many volunteers.

Q. Have you talked with any person who worked at one of these precincts at East Boston who saw Mr. Ahearn or anybody else giving out these stickers?—A. Yes.

Q. Who have you talked with?—A. Talked with Bill Murray.

Q. Bill Murray; that is the man who testified here the other day. Have you talked with anybody who worked at these precincts for Mr. Tague?—A. Bill admitted to me that he did.

Q. Will you please answer my question? Have you talked with any man who worked at that precinct in East Boston, or anybody else, who said that he saw Ahearn, or anybody else, give out one of these stickers?—A. I don't know.

Q. Did you see anybody give out these stickers?—A. They were there. They were loaded with them, but they did not perform.

Q. Did you see anybody give out those stickers?—A. No.

Q. Did you make any investigation to see whether there was anybody giving out these stickers?—A. I only had charge of my precinct.

Q. But you were interested?—A. Yes.

Q. And Mr. Ahearn told you this story?—A. Yes.

Q. When did he tell you this story?—A. The night of the banquet at the City Club.

Q. Didn't you go out and attempt to verify that story?—A. I didn't have to verify his admission.

Q. Answer my question. Didn't it interest you enough to make an investigation?—A. Not at that time; no.

Q. Did you communicate to anyone else that Mr. Ahearn had done this thing?—A. Yes.

Q. Who?—A. Tom Murphy.

Q. Who is he?—A. Quartermaster at the navy yard.

Q. Did you tell this to Mr. Harrington, Mr. Kane, or Mr. O'Connell, or Mr. Tonner, or his several attorneys?

Mr. O'CONNELL. Mr. Tonner is not attorney in this case.

Mr. CALLAHAN. I thought he was by proxy.

Q. You are working for the Treasury Department?—A. Yes, sir.

Q. How long have you been working for the Treasury Department?—A. About three months.

Q. Did you take a civil-service examination for that?—A. No.

Q. Did you get there through your own influence?—A. I got there through my own influence and Mr. Malley.

Q. Do you mean to say that Mr. Malley allows anybody to get in this department without indorsement?—A. It is quite probable my name got indorsement.

Q. Do you mean to tell me that Mr. Malley did not communicate with Mr. Tague and secure his indorsement?—A. I don't know.

Q. Don't you know that you have to thank Mr. Tague for that thing?—A. For what thing?

Q. Don't you know Mr. Malley told you it was necessary for you to get the indorsement of your Congressman?—A. No.

Q. And you say "No"?—A. I say "No."

Q. Did you contribute anything to the support of Mr. Tague?—A. Not a cent.

Q. You were out speaking for Mr. Tague every night?—A. Some nights.

Q. Every night?—A. No; some nights. Every night there was outside talking I was out.

Q. You were one of Mr. Tague's spellbinders?—A. No spellbinder.

Redirect examination by Mr. O'CONNELL:

Q. The point was, there were only three or four nights anyway?—A. Yes. I think that was all.

DENNIS A. O'NEIL.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John P. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 32 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

Deposition of DAVID MANCOVITZ, who, first being duly sworn, deposed:

Direct examination by Mr. O'CONNELL:

Q. What is your name?—A. David Mancovitz.

Q. And you are sitting as a notary here, representing John F. Fitzgerald?—

A. I sit with Notary Berman, representing John F. Fitzgerald.

Q. Representing John F. Fitzgerald?—A. To take this testimony; yes.

Q. Are you one of the lieutenants of Martin Lomasney?—A. I don't understand that question.

Q. What is the trouble with it?—A. If you call that proper, I don't.

Q. Isn't that the English language?—A. It is an insulting question.

Q. Isn't that the English language?—A. It is an insulting question. I will answer a fair question.

Q. Are you a lieutenant of Lomasney?

Mr. CALLAHAN. What do you mean by lieutenant? It has a military point of view.

Mr. O'CONNELL. From the organization standpoint, and he knows what I mean.

Q. Do you know what a lieutenant means?—A. I know what lieutenant means, not in an organization.

Q. Do you know what it means in an organization?—A. I don't.

Q. Are you a member of the bar?—A. Yes, sir.

Q. And you don't understand the meaning of lieutenant?—A. I do know what it means, and I told you what it means.

Q. Knowing what it means, do you hold that relationship to Martin Lomasney?

Mr. CALLAHAN. It is a rank, not a relationship.

Q. You have been very friendly with Martin Lomasney?—A. Very friendly.

Q. How long?—A. All my life; about 30 years.

Q. And he has chosen you to be sent to the common council?—A. No; the people where I live have chosen me.

Q. That is ward 8, isn't it?—A. No; it is not.

Q. Isn't it?—A. I don't think it has been ward 8 for years.

Q. How long have you been in the common council?—A. I have been in the council since 1908.

Q. And you have represented ward 5 in the legislature?—A. Yes, sir.

Q. How many years?—A. Four.

Q. And before there was a change in the registration in the ward lines of the last redistricting, you lived where?—A. At the Hotel Hancock.

Q. And where is that?—A. On Hancock Street.

Q. What number?—A. Thirty-six.

Q. When were you married?—A. Married on the 12th day of January, 1912.

Q. Where were you living at that time?—A. I lived on Hancock Street.

Q. Do you know where the Hotel Bellevue annex is?—A. Yes, sir.

Q. Have you lived there?—A. Yes, sir.

Q. When?—A. I have lived there since March, 1916.

Q. Have you any children?—A. No, sir.

Q. Do you know where 146 Bowdoin Street is?—A. Yes, sir.

Q. Is that in ward 5?—A. Yes, sir.

Q. Where are you registered from?—A. 146-150 Bowdoin Street, Hotel Bellevue annex.

Q. When did you leave there?—A. This morning.

Q. Where else do you live?—A. At the Hotel Bellvue annex.

Q. I asked you where else you live.—A. That is the only place I live in.

Q. Where else have you rooms?—A. Nowhere else.

Q. You have been attorney before the ballot law commission for John F. Fitzgerald?—A. I appeared as associate counsel with Mr. Albers for Mr. Fitzgerald.

Q. Were you retained by Mr. Lomasney or Mr. Fitzgerald in that fight?—A. I offered my services to the two of them, sir.

Q. And you have no bill to render for that?—A. I rendered them no bill.

Q. You just butted into it?—A. No; I believe in a just cause.

Q. Do you know any other just cause you have butted into?—A. A great many just causes. I have taken part in Liberty loans, legal advisory boards, and a great many other just causes.

Q. I mean just causes between men.—A. A great many causes where men were right I was with them.

Q. They were all controversies between wards?—A. No; I have appeared in court for a great many men that had no money and I tried their cases without any charges.

Mr. O'CONNELL. I would like to suspend this hearing until to-morrow morning.

Notary BERMAN. Adjourned until 10 o'clock to-morrow morning.

MORNING SESSION.

--

FEDERAL BUILDING, *March 6, 1919.*

Direct examination of Mr. Mancovitz by Mr. O'CONNELL—Resumed.

Mr. O'CONNELL. At this time I would like to ask if there are any of the hotel men who were summoned to come here with their records.

Notary BERMAN. Are there any of the hotel men here who were summoned to come here with their records? Are there any witnesses here who were asked to be here this morning? Proceed, Mr. O'Connell.

Mr. O'CONNELL. Will you ask if there are any witnesses here who were summoned to appear here on other days?

Notary BERMAN. Are there any witnesses here who were summoned to appear on other days? [No answer.]

Mr. O'CONNELL. Is there any witness here that wants to be heard? Will you ask that?

Notary BERMAN. Is there any witness here that wants to be heard on this question?

Mr. O'CONNELL. No response.

Notary BERMAN. There was a man here who was summoned to appear here yesterday and can be reached if you wish him. His name was Bernard.

Mr. O'CONNELL. You excused him?

Notary BERMAN. Yes.

Mr. O'CONNELL. Will you call him?

Notary BERMAN. You can reach him on the telephone.

Mr. O'CONNELL. I mean have him telephoned.

Q. Did you ever live on Hancock Street?—A. Yes, sir.

Q. What number?—A. 36.

Q. Did you have a lease?—A. I did.

Q. And when did it expire?—A. 1914 or 1915.

Q. You have not had it since then?—A. No, sir.

Q. Nor your family?—A. No, sir.

Q. Now, you are a brother of Israel Mancovitz, are you not?—A. Yes, sir.

Q. And Israel Mancovitz was a precinct officer in one of the precincts of ward 5?—A. I believe so.

Q. Where does he live?—A. The last I knew of, at his father's.

Q. Where is that?—A. 49 McLean Street.

Q. That is, with your father?—A. My father.

Q. 49 McLean Street is in ward 5?—A. Yes, sir.

Q. He is a married man?—A. He is married.

Q. Has he any children?—A. A child born December 15, 1918.

Q. You know he is one of the men summoned here? You have heard his name mentioned?—A. I have not.

Q. His name has been called by Notary Berman. Do you know any reason why your brother, Israel Berman—

Notary BERMAN. No; not Israel Berman.

Q. Israel Mancovitz, who was a precinct officer last fall should not be here to-day?—A. If he was summoned, he would be here.

Q. If he is not here, having been summoned, do you know why he stays away?—A. You assume he was summoned. I say, if he was summoned he would be here.

Q. Do you know why he has been kept away?—A. He has not been kept away.

Q. Do you know his wife, Mrs. Israel Mancovitz?—A. Certainly, I know her.

Q. Do you know any reason why she should be kept away?—A. If she was summoned, she would be here. Of course, as I say, she has been out of the hospital only a few months.

Q. What hospital?—A. Norton Hospital.

Q. Where is that?—A. I think in Roxbury.

Q. What street?—A. I could not tell you. It is the Norton Hospital.

Q. When have you last spoken to your brother?—A. I think it was yesterday.

Q. Did you discuss this case with him?—A. No.

Q. Or his wife?—A. I have not talked with his wife, I think, for two months.

Q. You knew that her name was read off?—A. I did not.

Q. You have been in attendance at these hearings?—A. I have been here a good deal of the time.

Q. You might not have been here, then, when her name was read off, but you have followed these hearings very closely?—A. I have stayed here ever since they started.

Q. And you have not noticed any names submitted to the attorney for Mr. Fitzgerald?—A. No, sir.

Q. Haven't you discussed with him and looked over lists with him?—A. Discussed with whom?

Q. Mr. Callahan.—A. I have never looked over lists with him.

Q. Weren't you interested to know who besides yourself of your family were summoned to be here?—A. No, sir.

Mr. O'CONNELL. I think that is all.

Cross-examination by Mr. CALLAHAN:

Q. Where does your father live?—A. 49 McLean Street.

Q. How long has he lived there?—A. My father has lived in the west end since 1887. He lived in the same house until last January.

Q. Your brother lives with him?—A. I don't know as he lives there now, but when I want to reach him I call his father's house and get him that way.

Mr. CALLAHAN. That is all.

(Mr. Norton was here recalled and his testimony follows this.)

Mr. O'CONNELL. At this time I want to call attention in the record to the fact that we have summoned the proprietors of the following hotels and lodging houses in ward 5, where we have alleged illegal registering and voting, and there has been no answer from the proprietors: The Merrill House, no answer from the proprietor; Revere House, no answer from the proprietor; the Lincoln House, no answer from the proprietor. The proprietors of the following hotels have testified: Ketteer's Hotel——

Mr. CALLAHAN. I submit this is not testimony.

Mr. O'CONNELL. The Quincy House, Hotel Lucerne, the Crawford, Central, Commonwealth——

Mr. CALLAHAN. You did not say that you had summoned the proprietor of the Commonwealth.

Mr. O'CONNELL. We had him yesterday. We have also shown that the only hotel that has appeared with the record has been the New England House. The Derby House manager has appeared with a list that he says——

Mr. CALLAHAN. Is this evidence?

Mr. O'CONNELL. He uses year after year, and that he keeps no register. Mr. Goodwin, will you please take the stand?

Mr. CALLAHAN. Now, before anybody else——

Mr. O'CONNELL. Let us move into this little room.

Mr. CALLAHAN. There is no need of going into that little room. He is not afraid. Before you go in there, Mr. O'Connell and Mr. Notary, I want to make this objection.

Notary BERMAN. Proceed, Mr. Callahan.

Mr. CALLAHAN. I was going to say that I shall object, and I want my objection noted, to any further evidence beyond what was given by these two witnesses, Mr. Mancovitz and the proprietor of the Hotel Royal, who was on the stand, for the reason that we have received no notice from Mr. Tague or his attorney of the meeting here to-day.

Mr. O'CONNELL. The only witnesses we are going to put on are those whom we are recalling or whom you have been notified were to be examined. I am going to put on the stand Mr. Goodwin, about whom you were notified:

Mr. CALLAHAN. I have not been notified.

Mr. O'CONNELL. You were notified the first day.

Mr. CALLAHAN. I have not received a notice for this meeting to-day, and I want to show on the record, if anybody reads this record, the disorderly way in which you are conducting it.

Notary BERMAN. The meeting was adjourned last night in order to continue the examination of witnesses. There was so much work yesterday we had to adjourn to continue the examination of witnesses.

Mr. CALLAHAN. Do you say you are not required to give us notice of the witnesses you are going to summon?

Mr. O'CONNELL. We have given you notice of every witness, and we are going to give every witness an opportunity to be heard during this day who was summoned from the 20th of February down to this 6th of March. Any witness who desires to come in and testify we will be very glad to hear from.

Mr. CALLAHAN. Will you accept service of this, Mr. O'Connell, or shall I serve it on Mr. Tague?

Mr. O'CONNELL. What is it?

Mr. CALLAHAN. Notice of hearing and witness to-morrow. I will make the hearing at 11 o'clock instead of 10.

Mr. HARRINGTON. He has notified us already. We are giving you a chance to examine him.

Mr. CALLAHAN. Accept service, please, and put it in the record.

Mr. O'CONNELL. That is all. We are going to interpose no technical objections. Any witness you want to bring in here, bring him in. "Service of the within notice is hereby accepted, March 6, 1919, 10.55 a. m."

Deposition of FRANK A. GOODWIN (sworn) :

Direct examination by Mr. O'CONNELL :

Q. What is your full name?—A. Frank A. Goodwin.

Q. And you are a member of the bar?—A. Yes.

Q. And you have been associated in the trial of this cause with me on behalf of Mr. Tague?—A. I have.

Q. And you were also associated with me in the petition for the recount at the primary and the hearing before the ballot law commission?—A. I was.

Q. At the hearing before the ballot law commission did you furnish the ballot law commission names of those who were to be summoned by them to appear at the hearing?—A. I did.

Q. The law required, Mr. Goodwin, that all names should be submitted to the ballot law commission of those who were to be summoned before it, did it not?—A. I understood so. That was required.

Q. And we were told by the ballot law commission to furnish all names to them and they would summons them?—A. Yes.

Q. And in pursuance of those instructions you furnished a list of names?—A. I did.

Q. Did you furnish a list of names whom they did not summons?—A. I did.

Q. Have you the list of names they did not summons?—A. George R. Baker, ward 6, precinct 5, 24 Union Park; Daniel F. Burke, ward 6, precinct 4, 21 Milford Street; Arthur L. Barry, ward 6, precinct 5, 23 West Dedham Street; William T. Costello, ward 6, precinct 6, 95 Union Park Street; Frank J. Fremont, ward 6, precinct 5, 335 Shawmut Avenue; Frank Hickey, ward 6, precinct 8, 60 West Newton Street; John F. Keating, ward 6, precinct 4, 17 Bond Street; James J. Kelley, ward 6, precinct 3, 52 Waltham Street; Thomas F. Kennedy, ward 6, precinct 3, 284 Shawmut Avenue; Thomas J. Cormican, ward 6, precinct 9, 44 East Springfield Street; Bartholemew J. Evans, ward 6, precinct 8, 1571 Washington Street; Nathaniel B. Knox, ward 6, precinct 8, 11 Rutland Street; Charles J. Leavey, ward 6, precinct 7, 77 East Brookline Street; William T. Loughlin, ward 6, precinct 9, 45 Worcester Street; Peter E. McDermott, ward 6, precinct 3, 11 Waltham Street; David A. McLauchlan, ward 6, precinct 9, 68 West Concord Street; Edward McSorley, ward 6, precinct 7, 1504 Washington Street; Daniel J. Sullivan, ward 6, precinct 6, 31 Hamburg Street. This list was given to Mr. Vinson and checked up by Mr. Vinson and Mr. Cunningham, the chairman of the ballot law commission, as having voted. They checked it from the certified list used at the primary furnished them by the election commission.

Q. Now, what did Mr. Cunningham state as to why they had not summoned these men?—A. When the returns did not come from the sergeant at arms with reference to these men, I asked Mr. Cunningham if he had given them to him, and he said he did not know. He then turned to Mr. Vinson and asked Mr. Vinson if he remembered anything about it. He said, "We checked them up. I remember specifically Mr. Goodwin gave me that list and we checked it up, but I don't know what happened to it." And then I asked him to give it to the sergeant at arms, and I furnished him this list.

Q. What did he say?—A. He did not make any answer at all.

Q. And he closed the case right away?—A. The case was closed two or three days after that.

Q. Just one or two questions. When, on the last day of the hearing, Mr. Lomasney appeared with thirty-five or forty witnesses, claiming to be attorney for them, did the commission permit me or any of the lawyers representing Mr. Tague to cross-examine any of the witnesses?—A. No.

Q. Did I ask to be permitted to cross-examine them?—A. In every case.

Q. And in every case I was refused by the commission?—A. You were.

Q. A ruling being made we had no right to cross-examine?—A. By Mr. Cunningham.

Q. Did I also ask the commission to have the various witnesses display the blue card which was necessary for registration in the Army as of the date of September 12?—A. You did; and he refused.

Q. He simply asked three categorical questions of each witness?—A. Yes.

Q. After the hearing adjourned it was five days before they announced their decision?

Mr. CALLAHAN. It is a matter of record.

A. I forget the exact time.

Q. And the decision was not sent down until the Tuesday prior to the election?—A. Five or six days; I forget.

Q. Just prior to the election?—A. Yes.

Q. Anything else you recall?—A. No.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. Goodwin, knowing Mr. O'Connell as you do and knowing the number of witnesses that were there that day, if Mr. O'Connell had been allowed to cross-examine these witnesses, do you suppose that the commission would have got through before election day?—A. That would depend on whether you were allowed to tackle them again after he got through.

Q. I want your opinion about that.—A. Of course, all they had to do was to show the card.

Q. Isn't it true these witnesses were brought there because Mr. O'Connell and the commission summoned them, because Mr. O'Connell insisted they did not exist; that they were men who did not actually exist?—A. I don't know that he insisted that.

Q. Wasn't that what you maintained?—A. We maintained they had voted.

Q. You maintained certain names had been voted on?—A. Yes.

Q. And Mr. O'Connell claimed these men did not exist; they were dead men or dummies?—A. All of them?

Q. Some of them.—A. Most of those names he did make that statement.

Q. And in order to clean up the situation and because the ballot-law commission did not have a chance to hear these witnesses, they were summoned in or they appeared that day and the commission decided if they were there on the 1st of April and if they had a right to vote.—A. These men who had come in—they had been summoned more than a week ago and had refused to answer the summons. They had refused to come in after service had been made at their last place of residence, and it was not until the last day they were brought in by Mr. Lomasney.

Q. You say brought in by Mr. Lomasney?—A. He had power of attorney for them.

Q. For some of them?—A. He said he had power of attorney for the whole of them.

Q. This list of names, you don't know if they were summoned?—A. No; I don't. There was no return.

Q. As a matter of fact, there were four or five hundred that came in?—A. Returns came in—

Q. Wait a while. You have not examined the returns of the sergeant at arms?—A. Every one. As they came in they were handed to me.

Q. As a matter of fact, you have not examined the returns the sergeant at arms brought in here yesterday to find out whether or not these names had been summoned?—A. Not those brought in yesterday, but I examined every one he brought in at that hearing.

Q. All the returns he brought in yesterday were all summoned?—A. I don't know.

Q. They were returns which had all been summoned, weren't they?—A. No; I don't know.

Q. You heard him testify?—A. I did not hear exactly what he said. I was taking care of something else.

Q. So you can not testify of your own knowledge if these records were summoned or not?—A. Not these records, but I know at that hearing there was no return made by the sergeant at arms to Mr. Cunningham, because he turned them over to us, and I called his attention to the fact this list had not been served.

Redirect examination by Mr. O'CONNELL:

Q. The ballot-law commission asked Mr. Tague to furnish money enough to pay for the summoning of these witnesses and he did so?—A. Yes.

Q. And they had ample money to serve these witnesses?—A. They returned a large sum of money. I was present when the young lady in Mr. Pedrick's office returned the money.

Q. So if the names had been given to him by the ballot-law commission they had plenty of money to serve them?—A. Something like seventy to eighty dollars returned back.

Q. Mr. Goodwin, have you the record of the sergeant at arms submitted by him as to the amount of money expended for the summoning of witnesses?—A. Yes. The amount given refreshed my memory. The amount given by Mr. Tague was \$125 and the amount spent was \$89.76 and the amount returned was \$35.24.

FRANK A. GOODWIN.

(Exhibit 42: Report made to Mr. Tague by Sergeant at Arms Pedrick of amount received and details as to expenditure.)

Mr. O'CONNELL. Under date of October 29 the Boston Herald printed a statement of George A. Bacon, chairman of the Republican State committee, warning the voters against the practice which had been exposed of voting on the names of soldiers and sailors who were absent.

Mr. CALLAHAN. Will you please note my objection to that? It is clearly inadmissible, first of all not being introduced by a witness.

Mr. O'CONNELL. This is a statement made by George A. Bacon and printed in all the Boston papers of that date, the Boston Globe, the Boston Herald, the Boston Post, and the Boston American:

"How to save your soldier boys from repeater votes.—George A. Bacon, chairman of the Republican State committee, last night issued an appeal to every citizen—man or woman—who has a relative in the military or naval service, to send the name of such men to the chairman of the local election board in every city and town, with a request that precautions be taken to prevent the use of the names by repeaters on election day.

"‘I feel that it is the duty of the citizens of all political parties to protect the names of the brave boys who are fighting for liberty overseas’ says the chairman, who refers to charges made in the Fitzgerald-Tague nomination contest as suggesting that irregularities may be attempted at the polls next Tuesday. ‘Here is a case where rigid preparedness may prevent trouble. Send the soldiers’ names to the election boards. Don’t let your boy’s name be voted on by a paid repeater and slacker at this election,’ he concludes.”

(Exhibit 43: Clipping from Boston Herald, October 29, 1918, as quoted above.)

Mr. O'CONNELL. I now offer the following telegrams and letters from the Navy Department, received by Mr. Tague, in connection with these witnesses.

Mr. CALLAHAN. Note my objection to that, Mr. Notary.

Notary BERMAN. Note Mr. Callahan’s objection.

Mr. CALLAHAN. It is not introduced by any witness and telegrams can not be authenticated.

Mr. O'CONNELL. These are in connection with the names of sailors whose names were voted on at the primary.

(Exhibit 44: Two telegrams and letter of confirmation in re Samuel L. Grossman:)

EXHIBIT 44.

WASHINGTON, D. C., *February 20—7.20 p. m.*

PETER TAGUE,

21 Monument Street, Charlestown, Mass.:

Records of bureau show that Samuel L. Grossman served on Board U. S. S. *North Carolina* from April 20, 1918, until January 16, 1919.

BUREAU OF NAVIGATION.

WASHINGTON, D. C., *February 20, 1919—3.40 p. m.*

Hon. PETER F. TAGUE,

21 Monument Square:

U. S. S. *North Carolina* left New York on September 23, 1918, on escort duty with convoy bound for France.

NAVAL OPERATIONS.

[Dispatch.]

NAVY DEPARTMENT,
BUREAU OF NAVIGATION,
Washington, February 20, 1919.

PETER TAGUE,
21 Monument Street, Charlestown, Mass.:

Records of bureau show that Samuel L. Grossman served on board U. S. S. *North Carolina* from April 20, 1918, until January 16, 1919.

BUREAU OF NAVIGATION.

(Exhibit 45: Three letters received from the Navy Department under date of February 24, 1919, February 24, 1919, and March 4, 1919.)

NAVY DEPARTMENT,
BUREAU OF NAVIGATION,
Washington, D. C., February 14, 1919.

MY DEAR MR. TAGUE: On September 24, 1918, Samuel L. Grossman was attached to the U. S. S. *North Carolina* and Joseph A. Graham was attached to the U. S. S. *Eurana*.

Very sincerely, yours,

(Signed) KENNETH CARTHINAN,
Captain, United States Navy.

HON. PETER A. TAGUE, M. C.,
House of Representatives, Washington, D. C.

NAVY DEPARTMENT,
OFFICE OF NAVAL OPERATIONS,
Washington, February 24, 1919.

Memorandum for Hon. Peter F. Tague, M. C.:

The U. S. S. *North Carolina* sailed from New York on convoy duty September 23, 1918, and returned to Hampton Roads October 12, 1918.

The U. S. S. *Huron* sailed from Brest September 23, 1918, and arrived Newport News, Va., October 4, 1918.

(Signed) W. B. WOODSON,
*Commander, United States Navy,
In charge of ship movements.*

NAVY DEPARTMENT,
BUREAU OF NAVIGATION,
Washington, D. C., March 4, 1919.

MY DEAR MR. TAGUE: Referring to your telephonic inquiry of yesterday requesting information regarding the whereabouts of one Samuel L. Grossman, 1621704, seaman, second class, U. S. N. R. F., and one Joseph A. Graham, 1616574, seaman, U. S. N. R. F., both of Boston, on the date of September 24, 1918, I wish to advise you that the records of the bureau show Samuel L. Grossman, who enrolled in the United States Naval Reserve Force February 5, 1918, at Boston, Mass., was attached to the U. S. S. *North Carolina* on September 24, 1918, and that Joseph A. Graham, who enrolled in the United States Naval Reserve Force December 12, 1917, in the first naval district, was attached to the U. S. S. *Eurana* on that date.

In this connection attention is invited to section 5498 of the Revised Statutes regarding claims against the Government, and it is the understanding, of course, that the above information is not to be used in violation of the law.

Respectfully,

(Signed) W. A. HALL,
Commander, United States Navy.

HON. PETER F. TAGUE, M. C.,
House of Representatives, Washington, D. C.

Mr. O'CONNELL. Joseph A. Graham, referred to in this letter, is the treasurer of the Hendricks Club whose name was voted on.

Now, in order that there may be no misunderstanding about these letters I am submitting at this time and the returns made by the deputy United States marshals of witnesses whom they have summoned—these summons aggregate between 350 to 400—the witnesses got all of them—the whole number, during these hearings—

Mr. CALLAHAN. Why don't the summonses speak for themselves?

Mr. O'CONNELL. The records will disclose and prove for themselves.

These are all exhibits and, of course, anything that is put into the case is at Mr. Fitzgerald's disposal and at his fullest disposal to use for their information.

Now, I want to reserve the right at this time to put on the marshals, if it is necessary, for the identification of their various names, unless it is conceded by Mr. Callahan and Mr. Brogna that these returns made by them are official.

Mr. CALLAHAN. Wouldn't it be better to have a communication from the marshal's office, not that we dispute you, but as a matter of record?

Notary BERMAN. Would that interfere, Mr. O'Connell, with having these subpoenas marked and the returns marked?

Mr. O'CONNELL. We want these marked as an exhibit because they may be of importance, and each one is referred to in the record and under his one exhibit and as part of that exhibit.

Mr. CALLAHAN. Where would the summonses be, so we could look at them?

Mr. O'CONNELL. They will be in our possession and they will be brought here to court every day as the hearing goes on and you can inspect them.

Mr. CALLAHAN. I think they should be impounded and put in the custody of the notary.

Notary BERMAN. Then, I appoint you custodian of these until such time as it may be necessary to produce them.

Mr. CALLAHAN. There is no guaranty now they will be produced.

Mr. O'CONNELL. You have my personal guaranty they will be produced. There is only one thing that will interfere and that is death.

Mr. CALLAHAN. Do I understand now you have closed your case?

Mr. O'CONNELL. Not at all. At this time I might say this: that the notice that we served on Mr. Fitzgerald was not put in, but my impression was that it was put in the first day.

Mr. CALLAHAN. Been put in and to be marked later. Mr. O'Connell, aren't you through with your case now?

Mr. O'CONNELL. No; we have not started yet. Now, at this time, Mr. Notary, I ask that you adjourn this hearing to resume it at the board of election commissioners in order that Mr. Burlen may finish his testimony.

Notary BERMAN. This hearing is now adjourned until 12 o'clock, to be resumed at the office of the election commissioners at City Hall Annex.

Mr. CALLAHAN. You will note my objection to the place and the removal, because I have received no notice of it.

Mr. O'CONNELL. I thought it was understood yesterday it was done as a matter of convenience, to suit the convenience of public officials who had valuable public records in their charge.

(Adjourned.)

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 21 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,
Notary Public.

BOSTON, MASS., *May 5, 1919.*

Hon. PETER F. TAGUE, recalled :

Mr. O'CONNELL. I suppose we better transfer this to the inner room.

Mr. CALLAHAN. Why, I thought you were in favor of publicity.

Mr. BERMAN. Proceed, Mr. O'Connell.

Mr. O'CONNELL. Mr. Notary, I respectfully request we adjourn to the adjoining room, in order that this hearing may be expedited.

Mr. CALLAHAN. I don't see where you are going to expedite it. You have one witness here.

Mr. O'CONNELL. The experience has been we get through in the smaller room, get through quicker with the witnesses and do more work, and it is for your convenience and everybody's else I am doing it.

Mr. CALLAHAN. I don't agree that it is for my convenience——

Mr. O'CONNELL. Mr. Tague is recalled, owing to the——

Mr. CALLAHAN. I desire to say that I come into this room under protest. I am the only one representing Mr. Fitzgerald. There are 45 Tague adherents at the door.

Mr. BERMAN. That's not true; all together, taking the witness, the newspaper men, the attorneys, and the stenographers.

Mr. O'CONNELL. Mr. Tague—will you give me that list, Mr. Goodwin?

Mr. Tague, on account of the failure of the witnesses who were summoned to appear, I am going to ask you concerning the residence and the registration of these names, who have been certified as having voted in the tenth district by the election commissioners.

Q. What do you say about John J. Dolan, who registered at the Hotel Ketterer, and certified as voting at the primary and election in ward 5, precinct 8?—A. John J. Dolan is a bartender at the Hotel Ketterer. No address given in the Boston Directory.

Mr. CALLAHAN. I object to this testimony, of course.

Mr. BERMAN. Note Mr. Callahan's objection. Proceed, Congressman.

Mr. CALLAHAN. I want to understand if this list is a personal investigation made by the Congressman. Won't you ask Mr. Tague, for the purpose of the record?

Mr. BERMAN. You will have the right to cross-examination.

Mr. CALLAHAN. I question whether I will have the right to cross-examination. You told me that before, and I question that. You told me that in reference to the election commissioners, and when they got through you closed up, and I didn't get a chance.

Mr. O'CONNELL. I beg your pardon.

Mr. BERMAN. I don't think so.

Mr. CALLAHAN. You did.

Mr. O'CONNELL. I think you had a chance.

Mr. CALLAHAN. If this is a question of veracity between you and Mr. Berman and myself——

Mr. BERMAN. I don't think that is right, Mr. Callahan.

Mr. O'CONNELL. You will have full right to cross-examine, only let me ask the Congressman, with an objection, now.

Mr. BERMAN. Note Mr. Callahan's objection.

Mr. CALLAHAN. Do I understand you object to my ascertaining it, Mr. O'Connell?

Mr. O'CONNELL. I do not; you will have full opportunity to ascertain everything.

Q. What do you say about George R. Shanklin, who registered at the Merrill House, Cambridge Street, ward 5, precinct 8, and certified as voting at the State election?—A. George R. Shanklin is not in the Boston Directory at that address. He is in the Boston Directory and voting last year from 164 Commercial Street.

Mr. CALLAHAN. I submit the Congressman can't testify unless he has looked these up.

Q. Have you looked them up in the Boston Directory?—A. I have.

Q. And the police lists?—A. I have.

Q. And have you taken pains to find out as much as you can about these various men, yourself?—A. All these notes are in my own handwriting, taken by myself.

Q. Made by yourself?—A. Yes.

Mr. CALLAHAN. Handwriting? That's typewriting.

Mr. TAGUE. Notes, I said.

Q. What do you say about Patrick H. Kane, who registered at the Derby House, Cambridge Street, and certified as voting at both the primary and the election from that address, ward 5, precinct 8?—A. That's the only address I can find.

Q. Is he in the Boston Directory?—A. Yes.

Q. What do you say about Daniel Connors, who registered at the Derby House, Cambridge Street, ward 5, precinct 8, and certified as voting at both the primary and the election from that address?—A. He is at the same place.

Q. What do you say about Frank M. Frost, who registered at the Quincy House, Brattle Street, ward 5, precinct 9, and certified as voting at election from that address?—A. Frank M. Frost is registered at the Quincy House; lives at 30 Magnolia Street, Dorchester.

Q. Which is in the twelfth congressional district?—A. Yes.

Q. What do you say about John A. McLaughlin, registered at the Quincy House, Brattle Street, ward 5, precinct 9, and certified as voting at both the primary and the election from that address?—A. John A. McLaughlin is a clerk in the assessing department, city hall, and lives in Melrose.

Q. Melrose being a district outside of the city of Boston?—A. Yes, sir.

Q. What do you say about Edward J. McManus, registered from the Quincy House, Brattle Street, ward 5, precinct 9, and certified as voting at the election from that address?—A. Edward J. McManus is not in the Boston Directory.

Q. What do you say about Patrick H. Conley, who registered at the Quincy House, Brattle Street, and certified as voting at the primary and election from that address?—A. Patrick H. Conley is an inspector at North Grove Street for the city of Boston. I can't find any address of his at all.

Q. You can't find any address in the Boston Directory?—A. No, sir.

Q. What do you say about Walter I. Brown, who registered from the Hotel Commonwealth, Bowdoin Street, and certified as voting in the primary and election, in ward 5, precinct 9?—A. Walter I. Brown is a city employee, engineer; last year voted from 6 Mount Vernon Place, which this year is ward 8.

Q. What do you say about Sylvester J. Twohig, registered from the Hotel Bowdoin, Bowdoin Street, ward 5, precinct 9, and certified as voting in the election?—A. Sylvester J. Twohig is a post-office clerk, and lives at West Somerville.

Q. He is registered and certified—A. Hotel Bowdoin.

Q. And he is certified as having voted on election day?—A. Yes, sir.

Q. Ward 5, precinct 9?—A. Yes, sir.

Q. What do you say about John B. McManus, registered from Hotel Central, Green Street, and certified as voting in the primary and election from ward 5, precinct 8?—A. He lives there as far as I can find.

Q. What do you say about Ernest Waldron, registered from the Hotel Central, Green Street, and certified as voting in the primary and election from ward 5, precinct 8?—A. The only address I can find in the voting list.

Q. Is he in the Boston Directory?—A. No.

Q. What do you say about John W. Norton, registered from the Hotel Royal, Court Street, and certified as voting at the election in ward 5, precinct 8?—A. John W. Norton is in the Boston Directory at 349 Main Street, Charlestown.

Q. That's in another ward?—A. Ward 3 of the tenth congressional district.

Q. What do you say about Timothy W. Corkery, registered from the Hotel Royal, Court Street, and certified as voting at the election in ward 5, precinct 8?—A. Timothy W. Corkery is not in the directory.

Q. Is he in the Boston Directory?—A. No, sir.

Q. For this year?—A. Not this year or last year.

Q. These names that you say are not in the directory, you mean they are not in the Boston Directory?—A. Boston City Directory.

Q. For the current or last year?—A. Yes, sir.

Q. That is 1918?—A. Seventeen and eighteen.

Q. What do you say about Thomas Deeley, registered from Hotel Central, Green Street, and certified as voting at the election in ward 5, precinct 8?—A. No, sir.

Q. Not in the Boston Directory?—A. No, sir.

Q. What do you say about John McGowan, registered from 19 Causeway Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. John McGowan is not in the directory.

Q. What directory?—A. Boston Directory.

Mr. CALLAHAN. Have you a directory here so we can determine whether they are or not?

Mr. O'CONNELL. No, sir.

Q. What do you say about Henry F. Moran, registered at 19 Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 8?—A. He is not in the Boston Directory.

Q. What do you say about Patrick Leonard, registered at 19 Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 8?—A. Not in the Boston Directory.

Q. What do you say about Charles L. Smith, registered at the Hotel Ketteret, Canal Street, Boston, and certified as voting at the election in ward 5, precinct 8?—A. Charles L. Smith, the Boston Directory gives him as living in Everett. I telephoned out there and found he lives out there.

Q. What do you say about Jeremiah E. Crowley, registered at 19 Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 8?—A. Not in the Boston Directory.

Q. What do you say about Patrick F. Halloran, registered at the Hotel Ketterer, Canal Street, Boston, and certified as voting at the election in ward 5, precinct 8?—A. Not in the Boston Directory. He is a bartender at the Hotel Ketterer, but I can't find out where he lives.

Q. What do you say about John F. Lambert, registered at the Crawford House, Court Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. John F. Lambert is from the supplementary police list, and registered on the supplementary list, and was not in the Crawford House, according to their reports, the 1st day of April.

Q. On the police?—A. On the police list.

Q. What do you say about Patrick T. Bowen, registered at the Crawford House, Court Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. The Boston Directory gives Patrick T. Bowen as a machinist at the Boston Navy Yard, living at 53 Tufts Street, Charlestown. A cousin of Patrick Bowen, who keeps a hotel, and very much interested in Mr. Fitzgerald's campaign.

Mr. CALLAHAN. Note my objection to comments of this kind.

Q. What do you say about Charles V. Fitzgerald, registered at the Crawford House, Court Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. Charles V. Fitzgerald is cashier in the Crawford House. The 1917 directory gives his address as Medford, Mass.

Q. To the best of your knowledge, he lives in Medford, Mass.?—A. No knowledge except the 1917 directory, which gives Medford, Mass.

Q. To the best of your knowledge, he lives there?—A. Yes, sir.

Q. What do you say about John Dick, registered at the Quincy House, Brattle Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. John Dick is not in the Boston Director of 1917 or 1918. He was registered from the supplementary list; not on the original police list.

Q. Do you know who he is?—A. No, sir.

Q. Do you know anything about what his occupation is—as to whether or not he is a labor leader?—A. John Dick is a labor leader, registered from the Quincy House, and does not live in Boston.

Q. What do you say about Patrick J. Sheehan, registered at the Quincy House, Brattle Street, and certified as voting at the primary and election in ward 5, precinct 9?—A. The Boston Directory gives Patrick J. Sheehan as an engineer, living at 15 Hemlock Street, Roxbury.

Q. In Mr. Tinkham's district?—A. Tinkham's district.

Mr. CALLAHAN. Is that the only Patrick J. Sheehan in town?

Q. What do you say about Daniel J. Shea, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Daniel J. Shea is not in the Boston Directory for 1917 or 1918.

Q. What do you say about Edward J. O'Brien, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. The Boston Directory gives Edward J. O'Brien as a clerk in the mailing division of the post office, living in Malden.

Q. Malden is a city outside of Boston?—A. Malden is a city outside of Boston.

Q. What do you say about John J. Quain, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as having voted at both primary and election in ward 5, precinct 4?—A. John J. Quain is not in the Boston Direc-

tory, but I have him and I will pick him out in a short while from this list here [indicating another list].

Q. What do you say about Thomas Linehan, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Thomas Linehan is not in the Boston directory of 1917 or 1918.

Q. What do you say about Edward L. Flynn, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 4?—A. Not in the Boston directory of 1917 or 1918.

Q. What do you say about Frank J. Henick, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Frank J. Henick is not in the Boston directory for 1917 or 1918.

Q. What do you say about George W. Cohan, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. George W. Cohan is not in the Boston directory for 1917 or 1918.

Q. What do you say about Charles K. Di Fatta, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 4?—A. Charles K. Di Fatta is not in the Boston directory either year and was challenged on election day.

Q. What do you say about William H. Hennessey, registered at the Hotel Rossmore, High Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. William H. Hennessey is not in the Boston directory, but lives in Revere.

Q. Revere is a city outside of Boston?—A. Yes.

Q. And a different congressional district?—A. Yes.

Q. What do you say about George Poggi, registered at Hotel Rossmore, High Street, Boston, and certified as voting in ward 5, precinct 9? He testified.—A. George Poggi is a bartender, works at 130 Broad Street, living at 50 Pleasant Park Road, Winthrop.

Q. He is certified as voting at the primary and election?—A. Yes, sir.

Q. What do you know about Maurice Goldberg, registered at 128 Court Street, and certified as voting at the election in ward 5, precinct 9?—A. He is not in the Boston directory, living at the Higgins Hotel; but Maurice Goldberg living at Malden, Mass., is the only one in the Boston directory.

Q. What do you say about William H. Kelley, registered at the Crawford House, Court Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. William H. Kelley is given in the Boston directory as an automobile agent, living at 17 Maywood Street, Roxbury.

Q. What do you say about Thomas W. Lucas, registered at the Rossmore Hotel, High Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. Thomas W. Lucas was not in the Boston directory either year; is a bartender at the Rossmore and lives in Revere. I have known him a great many years.

Q. What do you know about Dennis J. Leary, registered at the Crawford House, Court Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. Dennis J. Leary is not in the 1917 or 1918 Boston directory.

Q. What do you know about Fred L. Ross, registered at 113 High Street, Boston, and certified as voting at election in ward 5, precinct 9?—A. No. 113 High Street is a point down in the business section of the city; no room for lodgers; if he registered from that place it is where he is employed.

Q. What do you know about George L. Sullivan, registered at the Crawford House, Court Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. George L. Sullivan is in the Boston directory as living at Somerville; is a liquor dealer.

Q. What do you know about Patrick J. Kane, registered at Hotel Central, Green Street, and certified as voting on both primary and election day in ward 5, precinct 8?—A. Patrick J. Kane is not in the directory of 1917 or 1918, but has a record of voting in Waltham last year.

Q. And Waltham is a city outside of Boston?—A. Yes, sir.

Q. What do you know about Bartholomew J. Hegarty, registered at the Hotel Central, Green Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 8?—A. Bartholomew J. Hegarty is a clerk in the North Postal station; the Boston directory gives him living in Somerville, Mass., which is outside of the tenth congressional district.

Q. What do you say about Richard J. Kaveney, registered at Hotel Central, Green Street, Boston, and certified as voting at the election in ward 5, precinct 8?—A. Richard J. Kaveney is a lock tender on the new Charles River bridge. His Boston address is given as 9 Temple Street, which is in ward 8—the twelfth congressional district.

Q. What do you say about George W. Nash, registered at Hotel Central, Green Street, Boston, certified as voting at both primary and election in ward 5, precinct 8?—A. George W. Nash is not in the Boston Directory of 1917 or 1918.

Q. What do you say about Harry Swartz, registered at the Hotel Royal, Court Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. Harry Swartz is a photographer at No. 148 Court Street, and lives in Brookline.

Q. Brookline is a town outside of Boston?—A. Yes, sir.

Q. Where the wealthy people live. What do you say about Martin F. Lee, registered at Hotel Royal, Green Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. The Boston Directory gives Martin F. Lee as a roofer, living at No. 17 South Russell Street, which is in Congressman Tinkham's district.

Q. What do you say about Luke D. McDermott, registered at the Lincoln House, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 8?—A. The Boston Directory gives Luke D. McDermott as manager of that hotel.

Q. What do you say about James J. McNulty, registered at the Lincoln House, Causeway Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. The Boston Directory gives James J. McNulty as a clerk in the mailing division, Boston post office, living at Beachmont.

Q. Brother of Pat McNulty?—A. Brother of Pat McNulty, formerly in the street department of Boston, voting from No. 33 Lynde Street, living in Beachmont.

Q. One of the chief members of the Hendricks Club?—A. Sure; at precinct 8 on election day, a lieutenant of Mr. Lomasney.

Q. What do you say about Henry A. Burke, registered at the Derby House, Cambridge Street, Boston, and certified as voting at election in ward 5, precinct 8?—A. Not in the Boston Directory. Mr. Burke is a machinist, living in Cambridge last year.

Q. What do you say about Samuel A. Thomas, registered at the Derby House, Cambridge Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. Samuel A. Thomas is not in either the 1917 or 1918 directory. He was registered from the supplementary police list, not on the police list on April 1.

Q. What do you say about William C. Whaley, registered at Hotel Central, Green Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. He was here yesterday and testified he was a clerk there, and the directory gives him at that address.

Q. What do you say about Louis Locke, registered at the New England House, and certified as voting at the election in ward 5, precinct 8?—A. Louis Locke is a marketman in the Quincy Market. He testified that he lived at the New England House.

Q. What do you say about Thomas Walsh, registered at Hotel Central, Green Street, Boston, and certified as voting at election in ward 5, precinct 8?—A. Nothing for him in the directory for 1917 or 1918.

Q. What do you say about Harold M. Whaley, registered at Hotel Central, Green Street, Boston, certified as voting at election in ward 5, precinct 8?—A. The directory gives his address there.

Q. What do you say about Thomas J. Murphy, registered at the Quincy House, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. He testified yesterday he lived there.

Q. What do you say about Michael Duffy, registered at Hotel Bowdoin, Bowdoin Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. Michael Duffy is an inspector in the sewer department, city hall annex, which is his office. There is no other address in the Boston Directory. He does not live at the Hotel Bowdoin.

Q. What do you say about William J. Murphy, registered at the Quincy House, Brattle Street, Boston, and certified as voting at election in ward 5, precinct 9?—A. He testified in his own behalf a day or two ago.

Q. What do you say about Antonio Raneri, registered at the Quincy House, Boston, and certified as voting at the election in ward 5, precinct 9?—A. Antonio Raneri is not registered in the directory for 1918. He was in the 1917 directory as a chauffeur, and lives in Medford.

Q. Medford is a city outside of Boston?—A. Yes. A chauffeur in 1917; and lived there several years.

Q. What do you say about Edward A. Skelly, registered at the Quincy House, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. The Boston directory gives Edward A. Skelly as a letter carrier at the North Station Post Office. He lives at 44 Dana Street, Cambridge.

Q. What do you say about John A. Sullivan, registered at the Quincy House, Brattle Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. He testified yesterday.

Q. What do you say about Joseph Cosgrove, registered at Hotel Rexford, Bulfinch Place, Boston, and certified as voting at the election in ward 5, precinct 9?—A. Joseph Cosgrove is not in the directory of 1917 or 1918.

Q. What do you say about Stephen F. Carlin, registered at the Hotel Heidelberg, Court Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. He is not in the directory of 1917 or 1918.

Q. What do you say about Dennis F. McCarthy, registered at Hotel Rexford, Bulfinch Place, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. He is not in the Boston directory and the Hotel Rexford is closed.

Q. What do you say about Samuel Rinning, registered at the Windsor Hotel, Bowdoin Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. Samuel Rinning is not in the Boston directory for 1917 or 1918.

Q. What do you say about Moses Caplan, registered at the Quincy House, Brattle Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. The Boston directory of 1917 gives Moses Caplan as a lawyer, living at 35 Hancock Street, not in the district. Hancock Street is outside of the district.

Q. What do you say about Joseph Riley, registered at Young's Hotel, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. Joseph Riley works in the courthouse, a clerk, is a relation of Joseph Lomasney, and lives with his sister in Brighton. I have got it here; I will give it to you later.

Q. You ought to give it now?—A. I would rather give it to you later, if I can.

Q. You better give it now?—A. I will give it later.

Q. All right. What do you say about John R. Murray, registered at the United States Hotel, Beach Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. John R. Murray is an officer, a clerk at the courthouse, and lives in Brighton.

Q. What do you say about John G. Walsh, registered at the Commonwealth Hotel, Bowdoin Street, and certified as voting at both primary and election in ward 5, precinct 9?—A. The Boston directory of 1918 gives John G. Walsh, a chiropodist, at 23 Tremont Street, living in Everett.

Q. What do you say about Charles T. Cogan, registered at Hotel Bowdoin, Bowdoin Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. The Boston directory of 1917 gives Charles T. Cogan as a crew dispatcher, living in Winchester.

Q. What do you say about Joseph McDonough, registered at Windsor Hotel, Bowdoin Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. Joseph McDonough is not in the Boston directory of 1917 or 1918. He is listed from the supplementary list and police voting list.

Q. What do you say about John E. Duffy, registered at Hotel Lucerne, Causeway Street, Boston, and certified as voting at election in ward 5, precinct 4?—A. John E. Duffy is not in the directory of 1917 or 1918, the Boston directory.

Q. What do you say about Raymond J. Cass, registered at the Revere House, Bowdoin Square, Boston, and certified as voting at the primary in ward 5, precinct 9?—A. Raymond J. Cass is not in the Boston directory of 1918. Was in the Somerville directory and voted in Somerville last year, 1917.

Q. What do you say about Thomas A. McCarthy, registered at the Quincy House, Brattle Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. He testified here the other day.

Q. What do you say about Charles J. McCarthy, registered at the Quincy House, Brattle Street, Boston, and certified as voting at both primary and election in ward 5, precinct 9?—A. He testified here.

Q. What do you say about John J. McCarthy, registered at the Quincy House, Brattle Street, Boston, and certified as voting at both the primary and the election in ward 5, precinct 9?—A. He testified.

Q. What do you say about Albert I. Davis, registered at the Quincy House, Brattle Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. Albert I. Davis lives at 116 Brown Street, Brookline, salesman for the Van Nostrand brewery, in Charlestown, in which John F. Fitzgerald's brother James is very much interested.

Q. What do you say about Timothy F. Corey, registered at the Hotel Touraine, and certified as voting at the election in ward 5, precinct 9?—A. Was a liquor dealer at 235 Tremont Street; since election he has died. He lived at 27 Monroe Street, Somerville.

Q. Is that all?—A. His wife said the Touraine Hotel was his legal residence. He had to live in Boston from last day of March to the 1st day of May on account of his business. His wife's name is Sarah F. Corey.

Q. What do you say about Timothy F. Daly, registered at the Hotel Windsor, Bowdoin Street, and certified as voting at the election in ward 5, precinct 9?—A. Timothy F. Daly is not in the Boston Directory of 1917 or 1918.

Q. What do you say about William J. Murphy, registered at the Quincy House, Brattle Street, Boston, and certified as voting at election in ward 5, precinct 9?—A. He testified in his own behalf.

Q. What do you say about Mathias H. Casey, registered at the Revere House, Bowdoin Square, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. He is not in the Boston Directory this year. Last year he registered from 2 Eaton Street.

Q. What do you say about Hubert W. Bolan, registered at the Revere House, Bowdoin Square, and certified as voting at both the primary and election in ward 5, precinct 9?—A. He is not in the 1917 or 1918 Boston Directory.

Q. What do you say about Stephen J. Casey, registered at the Revere House, Bowdoin Square, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. He is not in the directory for 1918. Last year he was in the directory at 2 Eaton Street, West End.

Q. What do you say about James H. Cronin, registered at the Revere House, Bowdoin Square, and certified as voting at the election in ward 5, precinct 9?—A. James H. Cronin was not found in the directory, but a prison officer, said to live in Revere.

Q. What do you say about William H. Hart, registered at the United States Hotel, Boston, and certified as voting at the election in ward 5, precinct 9?—A. William H. Hart is a clerk in the North Station post office, and lives in Winthrop.

Q. What do you say about Robert L. Wiseman, registered at 54 Howard Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. Robert L. Wiseman, 54 Howard Street, has been closed for some time. All mail sent there has been returned. Robert L. Wiseman in the directory for 1917 his home address is given as 54 Astor Street and the Boston Directory for 1918 as 69 Batavia Street, which is not in the district.

Q. What have you to say about Thomas S. Sullivan, registered at 54 Howard Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. Same thing applies at 54 Howard Street, where he is registered. The Boston Directory gives him at 14 Derne Street, which is not in the district.

Q. What have you to say about John W. Riley, registered at 54 Howard Street, and certified as voting at the election in ward 5, precinct 9?—A. It is the same place, 54 Howard Street. The Boston Director gives him as living at 133 Eastbourne Street, Brighton.

Q. What have you to say about Joseph F. Howard, registered at 177 Endicott Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 3?—A. I haven't anything on the man at all. I let him get by me.

Q. What do you say about Alfred R. Rudd, registered at 177 Endicott Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 3?—A. Alfred R. Rudd registered from 177 Endicott Street, and lives at 41 Batavia Street, suite 9; formerly lived at 93 Belvidere Street, suite 4; is a machinist—at least, a forger—working in the Boston Navy Yard.

Q. What do you say about William A. Farrell, registered at 93 Endicott Street, Boston, and certified as voting at both the primary and the election in ward 5, precinct 3?—A. The Boston Directory gives William A. Farrell as living at 39 Washington Street, Charlestown, living with his sister, and he works at the Victory Plant.

Q. What do you say about Michael J. Bonner, registered at 93 Endicott Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 3?—A. Michael J. Bonner lives with his mother at 12 Mount Vernon Street, Charlestown, a bartender.

Mr. CALLAHAN. In the district?

The WITNESS. Yes.

Q. What do you know about Thomas F. Coffey, registered at 38 Wendell Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. He is given as living at 23 Monument Street, Charlestown; is a bartender at 36 Wendell Street.

Q. What do you know about Martin A. O'Hara, registered at 66 Bowdoin Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. Martin A. O'Hara is a police officer at station 3 and lives at 200 Dudley Avenue, Roslindale.

Q. Outside of your district?—A. Yes.

Mr. O'CONNELL. I wish you would call attention to that fact, when a man is outside of your district.

Mr. CALLAHAN. When he is in the district.

Q. What do you know about Richard A. Nagle, registered at 54 Howard Street, Boston, and certified as voting at the election in ward 5, precinct 9?—A. The Boston Directory of 1917 gives Richard A. Nagle as a contractor, living at 105 Bowdoin Street, Dorchester. Is not in the Boston Directory for 1918. It is the same 54 Howard Street.

Q. What do you know about John McGrath, registered at the United States Hotel, Beach Street, Boston, and certified as voting at election in ward 5, precinct 9?—A. I will give you that when I get the records I have in my papers here.

Q. What do you know about Thomas D. Hallahan, registered at 54 Howard Street, Boston, and certified as voting at election in ward 5, precinct 9?—A. He is a plumber registered at 54 Howard Street, which is closed up. The Boston Directory for 1917 and 1918 give his address at 8 Idlewild Street, Allston. By the way, he is not in the district.

Q. What do you know about Cornelius Driscoll, registered at 54 Howard Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. Cornelius Driscoll is not in the Boston Directory for 1917 or 1918.

Q. What do you know about John J. Scanlan, registered at the Revere House, Bowdoin Square, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. His name is not in the Boston Directory. He was said to be the proprietor of the Hotel Windsor last year, and was registered from the Hotel Windsor.

Q. What do you say about William E. Ryan, registered at the Revere House, Bowdoin Square, Boston, and certified as voting at the election in ward 5, precinct 9?—A. William E. Ryan is manager of the New England Reed Co., which is over the Hendricks Club on Green Street. He is registered from the Revere House. I could get no information direct, except that he lived in either Winchester or Woburn.

Q. What do you know about Dennis Reardon, registered at the Revere House, Bowdoin Square, and certified as voting at both primary and election in ward 5, precinct 9?—A. Dennis Reardon is a letter carrier, living at 40 Cobden Street, Roxbury.

Q. Outside of the district?—A. That is outside of the district.

Q. What do you know about Frank P. Leslie, registered at the Revere House, Bowdoin Square, and certified as voting at both primary and election in ward 5, precinct 9?—A. Frank P. Leslie is not in the Boston Directory for either 1917 or 1918.

Q. What do you know about Thomas Lawton, registered at the Revere House, Bowdoin Square, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. He is not in the Boston Directory for 1917 or 1918.

Q. What do you know about Michael J. Lafferty, registered at the Revere House, Bowdoin Square, Boston, and certified as voting at both primary and

election in ward 5, precinct 9?—A. He is not in the Boston Director for 1918. In the 1917 he is registered from 11 Adams Street, Charlestown, formerly a collector in the Boston fire department.

Q. What do you know about John B. Henick, registered at the Revere House, Boston, and certified as voting at the election in ward 5, precinct 9.—A. The 1917 directory give him a clerk in the mailing division of the post office, and living in Malden. The United States Directory gives him as being in the United States Army.

Q. What do you know about Austin T. Fitzgerald, registered at the Revere House, Boston, and certified as voting at election in ward 5, precinct 9?—A. No information on him.

Q. What do you know about Henry T. Cotter, 1 A Sharon Street, Boston, and certified as voting at the primary in ward 6, precinct 7?—A. Henry T. Cotter was one of the soldiers whose names were submitted to the ballot law commission, upon whom they made a report that his name was voted upon and he was in the service.

Mr. CALLAHAN. Isn't that a matter of record?

Q. What do you know about John L. Curry, registered at 469 Shawmut Avenue, Boston, and certified as voting at the primary in ward 6, precinct 8?

Mr. GOODWIN. I might say that all these names were on the list that we are getting down.

Q. John L. Curry, registered at 469 Shawmut Avenue, Boston, and certified as voting in the primary in ward 6, precinct 8, was a name having been voted upon while he was in the service. John J. Howell, registered at 1435 Washington Street, Boston, and certified as voting in the primary in ward 6, precinct 5, was a name having been voted upon in the primary while he was in the service.

Mr. CALLAHAN. I don't suppose you can go on with that list, reading it in, unless it is to aid the witness.

Q. Will you please read the names of those men who were certified by the election commissioners as having voted, and whom you know were in the service, and whose names were brought before the ballot law commission as voted on in the primary.

Mr. CALLAHAN. Isn't that all in from the documents submitted by Mr. Cunningham? I will leave that to Mr. Harrington, isn't that so?

Mr. HARRINGTON. I don't think so.

Mr. CALLAHAN. That's in the evidence as having voted; they are certified as having voted. It is in for what it is worth.

Mr. HARRINGTON. We want to identify them.

Mr. GOODWIN. Is that certified by the election commissioners as having voted in the primary?

Mr. CALLAHAN. The election commissioners have already certified and that is the exhibit.

Mr. GOODWIN. Read.

A. John J. Howell, 1435 Washington Street, was in the Army, and his name was voted on in the primary. Jerome P. Crowley, 8 Asylum Street, ward 6, precinct 2, was in the Army and his name was voted on. John F. Downey, 16 East Dedham Street, ward 6, precinct 6, was in the Army and his name was voted on in the primary.

Mr. CALLAHAN. Before the Congressman goes any further I want my objection noted to the admissibility of this evidence because it is not evidence, and that is all in already and he is reading from a list that is already in.

Mr. BERMAN. I understand it is all objected to.

Mr. CALLAHAN. This is only susceptible to proof by other records, and not by information given by the Congressman.

The WITNESS. I might say that every one of these names I am reading I have also gone to the War Department and the Navy Department and have a certification of all of them and will furnish that also.

Mr. CALLAHAN. Haven't you put in all the communications you received from the War Department?

Mr. GOODWIN. You need not answer that.

Mr. CALLAHAN. Why not?

Mr. GOODWIN. Because he is my witness at the present time.

Mr. BERMAN. You will have a chance to cross-examine. Proceed.

Mr. CALLAHAN. I wanted to get a little information. I don't want to cross-examine.

A. Walter J. Ring, Hotel Langham, Washington Street, Boston, ward 6, precinct 9, his name was voted on in the primary and he was in the United States

Navy. Moses Steinworzel, 31 Oneida Street, Boston, ward 6, precinct 2, his name was voted on in the primary and he was in the Army. John F. Horgan, 72 East Newton Street, Boston, ward 6, precinct 7, his name was voted on and he was in the Army. Samuel L. Grossman, 9 Kennard Avenue, Boston, ward 5, precinct 6, his name was voted on in the primary and he is in the Navy. The testimony presented here to-day proves he was not in this city on that day.

Mr. CALLAHAN. Do you consider your testimony now better than that?

The WITNESS. I consider it testimony in saying that he was not in the United States, but he was sailing from the United States on the *Carolina*, and was on his way across the water on that day.

Mr. CALLAHAN. I wish everything in the records accurate.

A. James A. Friel, 36 Billerica Street, Boston, ward 5, precinct 4, was in the United States Army in France, and his name was voted on. He is the son of James Friel, of the Hendricks Club. Joseph H. Graham, 37 Billerica Street, Boston, ward 5, precinct 4, was in the United States Navy. His name was voted on in the primary. He is the son of James Graham, of the Hendricks Club. Israel Davis, 27 Lowell Street, Boston, ward 5, precinct 4, was voted on in the election, and he was in the Army.

Mr. CALLAHAN. Election or primary?

The WITNESS. Primary, primary.

A. Joseph Goldman, 30 Oneida Street, Boston, ward 6, precinct 2, his name was voted on in the primary, and he was in the Army. [List read by Mr. Goodwin at this point.]

Q. What do you know about Charles F. Gallagher, registered at Hotel Ketterer, Canal Street, Boston, and certified as voting in both the election and primary in ward 5, precinct 8?—A. Registered from the Hotel Haymarket—

Q. Ketterer.—A. Ketterer, as gas inspector for the city of Boston. He lives at 42 Beach Road, Winthrop.

Q. What do you know about Edward J. Mulvihill, registered at 31 Lynde Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 8?

Q. What do you know about John S. Moylan, registered at rear 14 Causeway Street, Boston, and certified as voting at both primary and election in ward 5, precinct 4?

Mr. CALLAHAN. If you don't know anything, I don't think you ought to answer. I don't think you ought to look at the records.

The WITNESS. I know all about these boys. There are so many you can't keep them in your mind; when you get up to 1,000 you can't keep them all.

A. John S. Moyland registered as living at rear 14 Causeway Street, and he lives at 128 Walnut Avenue, Revere. Lived in this house for three years, married, clerk at 35 Lancaster Street, Boston, one son 21 years old, named Timothy B. Moylan, now in the United States service.

Q. Revere is in the—— A. In the ninth congressional district.

Q. Not in your district?—A. No, sir.

Q. What do you know about John F. Meehan, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. John F. Meehan registered at the Hotel Lucerne, living at 1260 Dorchester Avenue, in the twelfth congressional district. He is single, went into the Navy May 29, 1918, mustered out January 10, 1919. He testified before the ballot-law commission that he voted on that day. He has lived at 1260 Dorchester Avenue since February, 1918. He formerly lived at 284 Hancock Street, Dorchester, for a year and a half.

Q. What do you know about Sylvester O. De Rosay, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Nothing.

Q. What do you know about James F. Brown, registered at the Hotel Lucerne, Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 4?—A. There is no James F. Brown living at the Hotel Lucerne and registered in the Boston Directory of 1917 or 1918.

Q. What do you know about John Hurley, registered at the Hotel Lucerne, Causeway Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. There is no John Hurley at the Hotel Lucerne in the Boston Directory of 1917 or 1918.

Q. What do you know about Daniel J. Sullivan, registered at the Hotel Lucerne, Causeway Street, and certified as voting at both primary and election in ward 5, precinct 4?—A. No Daniel J. Sullivan in the Boston Directory of 1917 or 1918 living in Boston.

Q. What do you know about James J. Lavin, registered at the Lincoln House, Causeway Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. James J. Lavin, registered at the Lincoln House, lives at 28 Rodman Street, Jamaica Plain, 40 years old, two children, one Rita, 5, and the youngest 3 years. Owned the house 28 Rodman Street since March, 1915, been employed by the city of Boston 15 years, worked at the North Grove Street yard.

Q. Is that in the congressional district?—A. His home is not in my congressional district.

Q. What do you know about Peter Dukelow, registered at 19 Causeway Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?

Mr. CALLAHAN. He has testified.

A. I also want to call attention to the fact that his boarding mistress, Mrs. Donovan, testified he lived in Prospect Street, and that is where he lives.

Q. That is in your district?—A. Yes; but not in ward 5.

Q. What do you know about Michael F. Durant, registered at 37 Billerica Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Michael F. Durant registered at 37 Billerica Street, in the house owned by James Graham, of the Hendricks Club, formerly lived at 84 Washington Street, Somerville, and engaged in the barrel business over there.

Q. How long?—A. I don't know just how long.

Q. What do you know about Bartholomew J. McGowan, registered at the Lincoln House, Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 8?—A. Bartholomew J. McGowan, registered at the Lincoln House, lives at 117 Williams Street, Roxbury; is married, and has a girl over a year old.

Q. Is that in your district?—A. No, sir; outside.

Q. What do you know about Frank G. Smith, registered at Hotel Royal, Court Street, and certified as voting at the election in ward 5, precinct 8?—A. He is not in the Boston Directory of 1917 or 1918 from the Hotel Royal.

Q. What do you know about Daniel J. Crowley, registered at 19 Causeway Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—

Q. What do you know about Moses Krovitz, registered at Hotel Lucerne, Causeway Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Moses Krovitz is not on list here registered at the Hotel Lucerne. He lives at 71 Myrtle Street, which is not in the district; is a bartender in the Evans Hotel, corner of Charles and Cambridge Streets; formerly lived at 98 Myrtle Street; moved to 71 Myrtle a year ago. Myrtle Street is not in the district.

RECESS.

Q. What do you know about Edward D. O'Dwyer, registered at 382 Hanover Street, Boston, and certified as voting at both primary and election in ward 5, precinct 1?—A. The only Edward D. O'Dwyer in the Boston Directory of 1917 and 1918 lives at 25 Brook Avenue, Roxbury, which is not in the district. It is in the twelfth district.

Q. What do you know about John L. Smith, registered at 19 Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 8?—A. John L. Smith is not in the Boston Directory of 1917 or 1918.

Q. What do you know about Francis W. Quinlan, registered at 18 Lynde Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 7?—A. He was warden in ward 5, precinct 4, when the emergency box was used.

Q. Sure it was ward 5, precinct 4 or 5?—A. Four.

Q. What do you know about Philip J. Doherty, registered at the Lincoln House, Causeway Street, and certified as voting at the election in ward 5, precinct 8?—A. Philip J. Doherty, registered at the Lincoln House, is a plumber; not in the Boston Directory for 1917 or 1918.

Q. What do you know about Frank J. Gibbons, registered at 102 Staniford Street, Boston, and certified as voting at both primary and election in ward 5, precinct 8?—A. He testified.

Q. What do you know about James E. McGonagle, jr., registered at the Merrill House, Cambridge Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 8?—A. James E. McGonagle, jr., reg-

istered as voting from the Merrill House, is a clerk in the Boston post office, lives at 93 Binney Street, Roxbury, which is not in the tenth congressional district. This house is supposed to be owned by Martin M. Lomasney.

Q. What do you know about Neil E. Callahan, registered at 30 Causeway Street, Boston, and certified as voting at the election in ward 5, precinct 4?—A. The Boston Directory gives Neil E. Callahan as living at 7 Mansfield Place, Charlestown.

Mr. CALLAHAN. In the district?

The WITNESS. Outside of ward 5.

Q. What do you know about Charles M. Hollander, registered at 37 Leverett Street, Boston, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Charles M. Hollander, registered at 37 Leverett Street, Boston, lived at 60 Fenway Street until October 25, 1918. This is the statement given by his own wife.

Mr. BERMAN. Do you know his business?

The WITNESS. Keeps the Hotel Vienna, from which he registered.

Q. What do you know about Thomas McHugh, registered at 44 Cooper Street, Boston, and certified as voting at election in ward 5, precinct 3?—A. Nothing on him.

Q. What do you know about Robert C. Smith, registered at the Revere House, Boston, and certified as voting at both the primary and election in ward 5, precinct 9?—A. The Boston Directory gives Robert C. Smith at 34A South Russell Street, which is not in my congressional district.

Q. What do you know about John Lomasney, registered at the Hotel Bowdoin, Bowdoin Street, and certified as voting at both the election and the primary in ward 5, precinct 9?—A. John Lomasney, registered at the Hotel Bowdoin; lives at 79 St. Alphonus Street, Roxbury.

Q. Is that outside the district?—A. That is outside the district.

Q. What do you know about Leo Spelman, registered at the Hotel Lucerne, Causeway Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Leo Spelman, registered from the Hotel Central, lives at 344 Vine Street, now Hurley Street, in Cambridge; is married; has one child 18 years of age; lives with mother and child.

Q. What do you know about William Thornton, registered at Hotel Lucerne, Causeway Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. William J. Thornton, the director of 1917 gives him a mariner; at that time he lived at 54 Nashua Street, not the Hotel Lucerne.

Q. Is Nashua Street in the district?—A. Not the Hotel Lucerne.

Q. What do you know about Dennis J. Murphy, registered at 36 Billerica Street and certified as voting at both the primary and election in ward 5, precinct 4?—A. There is no Dennis J. Murphy in the Boston Directory at 36 Billerica Street. The house is owned by Mr. James Friel, the president of the Hendricks Club

Q. What do you know about John J. Graham, registered at 30 Causeway Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. The only John J. Graham is a drawtender for the city of Boston, and lives at 130 Princeton Street, East Boston, which is not in ward 5.

Q. What do you know about William J. Bonning, registered at the Hotel Lucerne, Causeway Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. William J. Bonning was formerly a member of the Boston fire department, registered as voting from the Hotel Lucerne, lives at 15 Claxton Street, Roslindale, lived for about three years in this house; married, no children; said he lived at the Hotel Lucerne when interviewed, and said he voted there last year, and he would vote there again.

Q. Is that residence in the district?—A. Not in the district. Roslindale is outside the district.

Q. What do you know about John F. Callahan, registered at 37 Leverett Street, Boston, and certified as voting at both primary and election in ward 5, precinct 4?—A. John F. Callahan, registered at 3 Allen Street, is that the one?

Q. John F. Callahan, 37 Leverett Street.—A. John F. Callahan, registered at 37 Leverett Street, the Hotel Vienna, is not in the Boston directory, and nobody at the hotel seems to know who he is.

Q. What do you know about Michael J. Fitzgerald, registered at 2 Copps Hill Terrace, and certified as voting at both the primary and election in ward 5, precinct 1?

Mr. CALLAHAN. He can testify from his notes.

The WITNESS. I can, but I don't want to do it from memory.

A. Michael J. Fitzgerald, registered from 2 Copps Hill Terrace, lived in Winthrop for the past three years, last summer and winter he lived at the Trident Cottage on Trident Avenue; the year previous he lived at the Lincoln Cottage, 196 Crest Avenue; has four children, Thomas Helen, Regis, and Rose, all going to the Winthrop Beach school, attended this school for two years; William F., the oldest boy, attends the Winthrop High School. Michael F. is a brother of John F. Fitzgerald.

Mr. O'CONNELL. Who is John F. Fitzgerald?

The WITNESS. He is trying to be a candidate for Congress.

Mr. O'CONNELL. Is this the same John F. Fitzgerald who was candidate for Congress against you in this district?

The WITNESS. He was.

Mr. CALLAHAN. And he is.

The WITNESS. Michael F. is his brother and a police officer.

Mr. O'CONNELL. In the city of Boston?

The WITNESS. In the city of Boston. Winthrop is not in the district.

Q. What do you know about Augustus O. Corbett, registered at the Merrill House, Cambridge Street, and certified as voting at both the primary and election in ward 5, precinct 8?—A. He is living there, which is the only information I can give.

Q. What do you know about Charles Hart, registered at the Lincoln House, and certified as voting at both the primary and election in ward 5, precinct 8?—A. Charles Hart, the Boston directory gives as living at 23 Irving Street, which is not in the district.

Q. What do you know about Arthur W. Pierce, registered at 19 Causeway Street, and certified as voting at both primary and election in ward 5, precinct 8?—A. Arthur W. Pierce, registered at 19 Causeway Street, lives at 43 Lynde Street. This man is one of the men who on election day in that precinct asked for assistance on the ground that he couldn't see, and he testified here before the notary yesterday, or the day before, or one day, and he could read and write without assistance from anyone, which is one more case proving that asking for assistance from the election officers is a habit in ward 5.

Q. What do you know about Henry J. Fowler, registered at the Revere House, Bowdoin Square, and certified as voting at both primary and election in ward 5, precinct 9?—A. Henry J. Fowler is residing at 125 St. Botolph Street, which is not in the congressional district.

Q. What do you know about John E. Fitzgerald, registered at the Revere House, Bowdoin Square, and certified as voting at both the primary and election in ward 5, precinct 9?—A. John E. Fitzgerald is a drawtender, employed by the city of Boston, and lives at 13 Monument Street, Charlestown.

Q. What do you know about Edison F. Sawyer, registered at the Commonwealth Hotel, Bowdoin Street, and certified as voting at both primary and election in ward 5, precinct 9?—A. Edison F. Sawyer is a rodman, employed by the city of Boston, lives at 30 Falcon Street, East Boston, which is not in ward 5, employed by the Boston Transit Commission. This information is given by his mother.

Q. What do you know about Philip J. Ahearn, registered at 76 Green Street, and certified as voting at both the primary and election in ward 5, precinct 7?—A. Philip J. Ahearn is a registered voter from 76 Green Street, lives at 130 Myrtle Street, which is not in the congressional district; is a plumber by trade; lived at this house for three years; mother's name is Bridget; father's name is John J.; lives on the third floor.

Q. What do you know about John F. Corcoran, registered at 14 Dilloway Street, and certified as voting at both the primary and election in ward 5, precinct 10?—A. John F. Corcoran, registered as voting from 14 Dilloway Street, is a liquor dealer on Main Street, Charlestown; was employed, has been employed, by the Van Nostrand Brewery, of which John F. Fitzgerald's brother is one of the managers. He lives at 14 Auburn Street, Charlestown, and has lived there for a great many years; is a single man and is a lieutenant of Martin M. Lomasney.

Q. What do you know about Michael F. Crosson, registered at the Revere House, Bowdoin Square, and certified as voting at both primary and election in ward 5, precinct 9?—A. Michael F. Crosson, registered from the Revere House, lived at 1088 Bennington Street, East Boston, which is outside of ward 5, for 18 years; is an engineer at the Boston City Hospital. Information given by his own mother.

Q. What do you know about William J. Crosson, registered at the Revere House, and certified as voting at the election in ward 5, precinct 9?—A. William J. Crosson, registered as voting from the Revere House, is 28 years of age and lives at 1088 Bennington Street, East Boston; lives there with his mother, Mary Elizabeth, and brother, Michael C.

Q. What do you know about Valentine F. H. McCormick, registered at the Revere House, and certified as voting at both the primary and election in ward 5, precinct 9?—A. Valentine F. H. McCormick is a letter carrier in the Central post office and lives at 24 Jerome Street, Dorchester, with his father and mother. Mrs. Frank Bradford, who owns the property, testified at the hearing that she knew Valentine McCormick and knew he had lived there a number of years; for four years it was. Mr. Alden, also summoned to testify and didn't come in; he said he had lived there for four years.

Q. What do you know about Leo P. Doherty, registered at the Revere House, and certified as voting at both the election and the primary in ward 5, precinct 9?—A. Leo P. Doherty, registered as voting from the Revere House, is a student at the Boston University Law School for three years, lives with his mother at 17 Harvard Street, Dorchester, where he has lived for over a year; formerly lived at Havelock Street, Dorchester, which is outside the district.

Q. What do you know about Joseph F. Walsh, registered at the Merrill House, Cambridge Street, and certified as voting at both the primary and election in ward 5, precinct 8?—A. Joseph F. Walsh is registered as voting from 13 Cambridge Street; lives at 5 Rockville Park, Roxbury; 39 years of age; married; employed by the board of health in the city of Boston; one child 5 years old; lived at Rockville Park for over two years; owns the property.

Q. Is that the John F. Walsh that was challenged in the primary?—A. He was challenged in the primary and appeared before the ballot law commission and took oath and said that he lived at the Merrill House and voted from there.

Q. What do you know about Joseph Kraft, registered at the Hotel Haymarket, Causeway Street, and certified as voting at both primary and election in ward 5, precinct 8?—A. Joseph Kraft, who is registered from the Hotel Haymarket, voting from the Hotel Haymarket; lives at 2 Summit Avenue, Brookline; lived there with his wife and family over 10 years; owns the property.

Q. What do you know about Daniel P. McCarron, registered at the Lincoln House, Causeway Street, and certified as voting at both the primary and election in ward 5, precinct 8?—A. Daniel P. McCarron, registered at the Lincoln House, lives at 100 Princetown Street, Medford, suite 2; lived there for five years; bartender at the Palace Hotel, on Canal Street; married; he has two children.

Q. What do you know about Charles F. Rooney, registered at the Hotel Lucerne, Causeway Street, and certified as voting at both the primary and the election?—A. Charles F. Rooney, registered at the Hotel Lucerne, lived at 23 Princeton Street, East Boston; bartender for Estey & Walsh, Bennington Street, East Boston; lived at 23 Princeton Street since a year ago last Christmas; his residence was 12 Carleton Street, Newton Center, which is outside the district.

Q. What do you know about Charles W. Murphy, registered at the Hotel Lucerne, Causeway Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Charles W. Murphy, registered at the Hotel Lucerne, lived at 95 Geneva Avenue, Dorchester; lived there for two years; clerk in the public library.

Q. What district is that?—A. The twelfth congressional district. Lived there until October, 1918, at 95 Geneva Avenue, now lives at 12 Wales Street, married, and has one child 3 years old.

Q. What do you know about James Lang, registered at 36 Billerica Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. 36 Billerica Street is a house owned by James A. Friel, president of the Hendricks Club. He lives at 309 Medford Street, Somerville, which is outside of the city and the district; is married and has five children, the oldest 9 years of age. He formerly lived at 10 Putnam Street, Somerville, for four years.

Q. What do you know about Joseph V. Maddock, registered at 5 Eaton Street, and certified as voting at both the primary and election in ward 5, precinct 6?—A. Joseph V. Maddock, registered at 5 Eaton Street, lives at 2 Erie Street, Dorchester, suite 2; employed by the city of Boston; an electrician; formerly lived at 17 Fenelon Street, Dorchester, three years; lived at 9 Eaton Street since the spring of 1918. Information given by his sister.

Q. What do you know about John F. Leonard, registered at the Hotel Lucerne, Causeway Street, and certified as voting at both the primary and

election in ward 5, precinct 4?—A. John F. Leonard, registered at the Hotel Lucerne; lives at 132 Boston Avenue, Somerville; lived there for three years; married; employed by the American Express Co.

Q. What do you know about Francis J. Gorman, registered at 36 Billerica Street, and certified as voting at both the primary and election in ward 5, precinct 4?—A. Francis J. Gorman, registered at 36 Billerica Street, which is owned by James A. Friel, president of the Hendricks Club; lives at 27 Vinson Street, Dorchester, which is not in the district; employed as a clerk in the city of Boston; went into the United States service in 1917; name was voted on in the primary while he was in the service.

By Mr. HARRINGTON:

Q. (Mr. Harrington reads from this point.) What do you know about Charles D. Celest, registered at 107 Leverett Street, Boston, and certified as voting at neither the primary or the election?—A. Charles D. Celest registered at 107 Leverett Street; lives at 77 Princeton Street, Medford; married; had a boy recently killed; lived there for over a year; previous to that lived at 12 Bellflower Street, Dorchester; from there moved to 38 Frederick Avenue, Medford, left there about a year ago; moved to Bower Avenue, living there about two months; then moved to the present address, 77 Princeton Street, and lived there a year.

Q. Whether or not he is a precinct officer?—A. Master barber at 33 Causeway Street. He doesn't live in the congressional district or in the city, and he has served as precinct officer in ward 5 during the time that he has not lived in the district or in the city in violation of the law.

Q. Was that during the campaign that you were out as a candidate for Congress?—A. Yes.

PETER F. TAGUE.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of *Peter F. Tague v. John F. Fitzgerald*, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

NANCY H. HARRIS.

BOSTON, MASS., May 5, 1919.

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I hereby certify that the foregoing in this volume containing about 48 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me under oath in the contested election of *Peter F. Tague v. John F. Fitzgerald*, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN, *Notary Public*.

BOSTON, MASS., May 5, 1919.

Redirect examination of Mr. TAGUE (continued):

Q. What information have you in regard to John D. Feeney, registered and voting from 10 Lynde Street, voting at the primary and election, ward 5, precinct 7?—A. John D. Feeney, registered and voting from 10 Lynde Street, lives at 29 Elm Hill Park, Roxbury. He has lived there for 12 years with his father and mother. His mother gave the information.

Q. What information have you in regard to John H. Doherty, registered at the Revere House, and voting at the primary and election in ward 5, precinct 9?—A. John H. Doherty, registered and voting from the Revere House, lives at 17 Harbor Street, Roxbury. He is an officer for Suffolk County in the Charles Street jail.

Q. What information have you in regard to George H. Connor, registered from the Revere House and voting at the primary and election from ward 5, precinct 9?—A. George H. Connor, registered and voting from the Revere House, formerly lived at 12 Whitten Street, Dorchester, but moved a year ago

to 41 Elmore Street. He is married and has five children. The children attend the Gibson School, which is in Dorchester. Dorchester is not in the congressional district.

Q. What information have you in regard to John J. Larkin, registered from the Hotel Bowdoin, Bowdoin Street, and voting in the primary and election from ward 5, precinct 9?—A. John J. Larkin, registered and voting from the Bowdoin House, is married and employed by the Filene Co. as a furrier. He has lived seven years at 11 Paisley Park, Dorchester; has two children, one 3 and one 1 year old.

Q. What information have you in regard to John F. Beatty, registered from the Hotel Bellevue, Beacon Street, and certified as having voted at the election in ward 5, precinct 9?—A. John F. Beattie, registered from the Hotel Bellevue, lives at 1402 Commonwealth Avenue, and has lived there since April 1, 1917. John F. Beattie is a partner of Martin M. Lomasney, in the Beattie Construction Co. He is married to Dr. Mary Moore, whose office is at their address, 1402 Commonwealth Avenue.

Q. What information have you in regard to Daniel J. McLaughlin, registered from 62 Brighton Street, and certified as voting at the primary and election from ward 5, precinct 5?—A. Edwin J. McLaughlin, registered and voting at 62 Brighton Street, lives at 169 Crescent Avenue, Revere. He has two children that attend the Crescent Avenue School, in Revere. Revere is not in the congressional district.

Q. What information have you in regard to Francis J. Dowd, registered from the Merrill House and certified as having voted in ward 5, precinct 8?—A. Francis J. Dowd, registered from 13 Cambridge Street and voting from 13 Cambridge Street, lives at 6 Leroy Street, Dorchester. He is married and has lived there four years. He is an inspector for the street-cleaning department of the city of Boston. He has five children and the ones that go to school attend the Marshall School, on Westfield Street, Boston.

Q. What information have you in regard to Timothy McKeon, registered from the Merrill House, 13 Cambridge Street, certified as having voted at the primary and election from ward 5, precinct 8?—A. Timothy J. McKeon, registered from the Merrill House, lives with his wife at 35 Woodford Street, Dorchester, and has lived there for four years. He is in the restaurant business in the west end. He has one child, 16 months old.

Q. What information have you in regard to Frank J. Callahan, registered from 3 Allen Street, and certified as voting at the election from ward 5, precinct 6?—A. Frank J. Callahan, registered at 3 Allen Street, lives at 23 Elsworth Street, Cambridge. He is married and runs a stable at 665 Cambridge Street. He has had an automobile working for the United States Government, drawing mail from the North Station.

Q. Alfred Scigliano?—A. We had him.

Q. Lawrence J. Fallon?—A. We had him.

Q. Patrick J. Comber—what information have you in regard to Patrick J. Comber—registered from the Derby House and certified as having voted in ward 5, precinct 8?—A. Patrick F. Comber, registered from 39 Cambridge Street. I haven't anything on him.

Q. What information have you in regard to William E. Sullivan, registered from the Hotel Ketterer, Canal Street, and certified as having voted at the primary and election in ward 5, precinct 8?—A. William E. Sullivan, registered from the Hotel Ketterer, lives at Saxonville, Mass., outside of the congressional district.

Q. What information have you in regard to Thomas G. and Thomas J. Sheridan, both registered from the Hotel Lucerne, Portland Street, and being certified as having voted at the primary and election in ward 5, precinct 4?—A. Thomas G. Sheridan, registered from the Hotel Lucerne, resides at 45 Alpine Street, Roxbury, with his wife, Elizabeth. They have lived there since April, 1918. Previous to that time they lived at 512 Bedford Street, and lived there for more than a year. Sheridan is an employee of Turner & Co. He testified at the ballot law commission hearing that he lived at the Hotel Lucerne and voted in the primaries. Thomas J. is registered from the Hotel Lucerne. He is married and lives at 15 Alpine Street, in the same house with his father, on the first floor. He is a postal clerk in the South Station post office, and formerly lived at 661 Eighth Street, South Boston. Roxbury is not in the district.

Q. What information have you in regard to Richard L. Lombard, registered from the Revere House and certified as voting in the primary and election in

ward 5, precinct 9?—A. Richard L. Lombard, registered from the Revere House, lives at 19 Park Street, Cambridge, with his father, mother, and sister at the present time. That was on April 1 of last year.

Q. 1918?—A. Yes; 1918. At the present time he is living with his sister at 27 Ivy Street, Boston, and has been for the past six months. He works for L. M. Dyer, Faneuil Hall Market.

Q. What information have you in regard to Daniel P. Kelley, registered from the Revere House and certified as having voted at the primary and election in ward 5, precinct 9?—A. Daniel P. Kelley, registered from the Revere House, 35 years of age, married, lives at 49 Lasalle Street, West Roxbury, has three children aged 10 to 5. Two children attend the Robert Shaw School, and the oldest girl goes to a convent school. He owns his house and has lived there for the past five or six years. Is a civil engineer employed by the city of Boston.

Q. What information have you in regard to Edward B. Clark, registered from the Hotel Brewster and certified as having voted from ward 5, precinct 9?—A. Edward P. Clark, liquor dealer, registered from the Hotel Brewster, lives at 14 Wood Street, Charlestown, Mass., with his sister, Mrs. Day and has lived there for a number of years. He is married and runs a liquor store on Causeway Street at the corner of Haverhill Street. He was married recently and lives now at 32 Ashford Street, Alston. This information given by his sister.

Q. Whether or not you know whether this Edward P. Clark is a close personal friend of John F. Fitzgerald?—A. Clark was one of his most intimate friends; was through his campaign and spent his time going about and making bets on John F. Fitzgerald. Does not live and has not lived in the ward he is registered in.

Q. What information have you in regard to Francis A. Crowley, registered from the Commonwealth Hotel and certified as voting in the primary and election in ward 5, precinct 9?—A. Francis A. Crowley, registered and voting from the Commonwealth Hotel, lived at 57 Hamilton Street, Dorchester, for the past four or five years, but in October, 1917, he married and moved to 88 Train Street, Dorchester. Crowley gave the information himself. Crowley is clerk in the post office.

Q. What information have you in regard to William J. Sheehan, registered from Hotel Bowdoin and certified as having voted in the primary and election from ward 5, precinct 9?—A. William J. Sheehan, registered and voting from the Hotel Bowdoin, lives at 6 Reevesdale Street, Alston, and has lived there four years with his brother, John Sheehan, and at his father's. He is employed in the City Hall annex.

Q. He is a city employee?—A. Yes.

Q. What information have you in regard to Park B. Wilde, registered from the Boyce House and certified as having voted in the primary and election in ward 5, precinct 9?—A. Park B. Wilde, registered and voting from the Revere House, lives at 1220 Banks Street, Cambridge. He has lived there 15 years. He is married and his wife's name is Catherine. He is president of the Boyce Cigar Co. of Boston.

Q. What information have you in regard to Marciano Di Pesa, registered from the Hotel Napoli, and certified as having voted in the election in ward 5, precinct 9?—A. Marciano Di Pesa, registered and voting from the Hotel Napoli, lives at 1875 Commonwealth Avenue and has lived there two years with his daughter, Mrs. Scotti. He moved there from 69 Summit Avenue, Brookline, where he lived for seven years. He is 72 years of age, and his wife 81 years of age. He owns the Hotel Napoli and lives on the second floor of the building.

Q. What information have you of William C. Campbell, registered from 30 Hawkins Street and certified as voting at the primary and election in ward 5, precinct 8?—A. William C. Campbell, 30 Hawkins Street, lives at 22 Kingsdale Street, Dorchester, and has lived there for two years. He is married and his wife's name is Bessie.

Q. Any children?—A. No children.

Q. What information have you in regard to Abraham Finkelstein, registered from the Lincoln House, and certified as having voted in the primary and election in ward 5, precinct 8?—A. Abraham Finkelstein, registered and voting from the Lincoln House—he has been here. He testified.

Q. What information have you in regard to Patrick J. McNulty, registered from 33 Lynde Street, and certified as having voted in ward 5, precinct 8?—A. Patrick McNulty is—

Q. Is he the Patrick McNulty referred to as being in charge of precinct 8 of ward 5 all day?—A. He was down in the voting precinct on election day at

precinct 8, advising the warden and, apparently, he had full charge of the precinct on that day.

Q. Did you see him?—A. I did. He is registered at 33 Lynde Street and lives at 72 Jones Road, Beachmont, which is outside of the district. He is married and his wife's name is Bridget. They have one daughter, Annie, aged 10 who attends the Crescent Avenue School in Revere, Beachmont. McNulty works for the street department of the city of Boston has lived in Beachmont six years. Owns three houses and owns the one he lives in. He is house chairman of the Revere Lodge of Elks in the city of Revere, and when he entered the Elks he was obliged to testify that he lived in the city of Revere, which is not the tenth congressional district nor in the city of Boston.

Q. What information have you in regard to Henry S. Marks, 19 Causeway Street, certified as having voted in the primary and election in ward 5, precinct 8?—A. Henry S. Marks, registered and voting from 19 Causeway Street, lives at 6 Howard Street, Cambridge, and has lived there over a year. Married, has three children. Formerly lived at 7 Kirkland Street, Boston, for 20 years. Shoemaker by trade.

Q. What information have you in regard to George D. McNeil, registered from the Hotel Lucerne, Causeway Street, and certified as having voted in the primary and election in ward 5, precinct 4?—A. George D. McNeil, registered and voting from the Hotel Lucerne. I have information on that. Nothing in the Boston directory on him.

Q. What information have you in regard to John F. Leonard, registered from the Hotel Lucerne, and certified as having voted in the primary and election in ward 5, precinct 4?—A. John F. Leonard, registered and voting from the Hotel Lucerne, lives at 137 Boston Avenue, Somerville. That was in before. Which is outside of the congressional district.

Q. What information have you in regard to Samuel Krabets, registered from the Hotel Lucerne and certified as having voted in the primary and election in ward 5, precinct 4?—A. We had that before. Samuel Krabets, registered and voting from the Hotel Lucerne, lives at 189 Cambridge Street, Boston, which is outside of the congressional district. He has lived there for the past six years. At the present time, employed at the Victory plant at Squantum. That is all.

Q. What information have you in regard to Frank S. Moylan, 35 Billerica Street, certified as having voted in the primary and election in ward 5, precinct 4?—A. Frank S. Moylan, registered and voting from 35 Billerica Street, lives at 52 Irving Street. He is now working in the Federal Reserve Bank at 53 State Street. Information given by his mother.

Q. What information have you in regard to Anthony Valente, registered from the New England House on Blackstone Street, and certified as voting in the election at ward 5, precinct 2?—A. Anthony Valente, registered and voting from 172 Blackstone Street, the New England House, lives at 22 Kenerson Road, Somerville, which is not in the congressional district.

Q. Is that all the information that was furnished? Is his wife there?—A. Engaged in the poultry business at 27 North Market Street. His wife says he has lived at that address three years.

Q. She was one that testified?—A. She testified.

Q. What information have you in regard to Hugh H. Cannon, registered from 102 Endicott Street, and certified as having voted in the State election at ward 5, precinct 3?—A. Hugh H. Cannon, registered and voting from 102 Endicott Street, is a liquor dealer at 148 Leverett Street.

Q. Leverett Street?—A. That is where his bar is.

Q. Endicott Street, isn't it?—A. Leverett Street. Registered at 102 Endicott Street. The bar is 148 Leverett Street, and he lives at 38 Columbia Road, Dorchester.

Q. Any children?—A. No children.

Q. What information have you in regard to Thomas F. Lomasney, registered from the Hotel Bowdoin, and certified as having voted at the primary and election at ward 5, precinct 9?—A. Thomas F. Lomasney, registered and voting from the Hotel Bowdoin, lived at 19 Westland Avenue, which is outside the congressional district, for two years.

Q. Information furnished by whom?—A. By his landlady, Mrs. Newcomb.

Q. And by himself, was it?—A. And also by himself.

Q. What information have you in regard to David J. McCarthy, registered from 61 Allen Street, and certified as having voted in election at ward 5, precinct 10?—A. David J. McCarthy, registered and voting from 61 Allen Street,

lives at 180 Mount Vernon Street, Malden, Mass., which is outside of the congressional district and outside of the city. He has lived at this address since September, 1918. He formerly lived at 11 Seaview Avenue, Malden. He has 11 children, 1 married, 2 sons in France, members of the Twenty-sixth Division, 6 go to school, 4 girls and 2 boys going to the Cheverus Centennial School. One girl, Alice, 17 years old, is employed as a cashier at Shepard & Norwell's. Information obtained from his wife, Mrs. Margaret E. McCarthy.

Q. What information have you in regard to Aloysius Cregg, registered from the Revere House, and certified as having voted in the primary and election in ward 5, precinct 9?—A. Aloysius Cregg, registered and voting from the Revere House, lives at 28 Hollis Street. The landlord there is George Kelley. He said, "Cregg came to our house May 1, 1918," which was after the day for the filing of names for those who voted at the last election. He came from Tech Chambers on Irvington Street and is a dentist. Irvington Street, Boston, is not in the congressional district.

Q. What information have you in regard to Alfred Di Pesa, registered from the Hotel Napoli, Friend Street, and certified as having voted in the primary and election in ward 5, precinct 9?—A. Alfred De Pesa, registered and voting from the Hotel Napoli, lives at 26 Evansway Street, Roxbury. He has lived there since the fall of 1917. Statement given by his wife.

Q. What information have you in regard to Joseph Santosousso, registered from the Quincy House, and certified as having voted in the primary and election in ward 5, precinct 9?—A. Joseph Santosousso, registered and voting from the Quincy House, lives at 122 College Road, Newton, where he owns a house right next to Boston College. He is a lawyer at 43 Tremont Street, Boston. Previous to going to Newton he lived at 210 Harvard Street, Dorchester. He has three children, two boys attending the Boston Latin School, and one girl who attends the Girls' Latin School. Previous to going to Newton he lived at Harvard Street, Dorchester, 23 years.

Q. What relation had he to the Fitzgerald campaign?—A. One of Mr. Fitzgerald's most substantial workers.

Q. What information have you in regard to Charles L. Garvey, registered from 135 Allen Street, and certified as having voted in the primary and election in ward 5, precinct —?—A. Charles L. Garvey, registered and voting from 135 Allen Street, is a blacksmith, residing at 68 Bakersfield Street. He runs a blacksmith shop on Pitts Street.

Q. He is the man who testified?—A. Yes. 68 Bakersfield Street is not in the district. The information was given by Mrs. Sarah O'Brien of 68 Bakersfield Street. His telephone number is 3901-M, Dorchester, and that telephone, according to the telephone book, is listed at 68 Bakersfield Street.

Q. What information have you in regard to William J. Sullivan, registered from Hotel Ketterer, Canal Street, and certified as having voted at the primary and election in ward 5, precinct 8?—A. William J. Sullivan, registered and voting from Hotel Ketterer, lives at 21 Minnesota Avenue, Somerville, and he has lived there since October 1, 1917. He is married, is a clerk in the employ of the Charles S. Gove Co., who runs the Hotel Ketterer. Information given by Sullivan himself. 21 Minnesota avenue, Somerville, is not in the 10th congressional district and is not in Boston.

Q. What information have you in regard to Charles E. Maynard, registered from the Hotel Royal, and certified as having voted in the primary and election in ward 5, precinct 8?—A. Charles E. Maynard, registered and voting from the Hotel Royal, lived at 32 Myrtle Street, Boston. Has lived at that address four years. Is employed at 21 Tremont Street, in Harry Schwartz's picture studio.

Q. What information have you in regard to George J. Lowe, registered from the Hotel Central, and certified as voting at the primary and election in ward 5, precinct 8?—A. George J. Lowe, registered and voting at the Hotel Central, lives at 15 Harbor Street, Charlestown, which is not in ward 5. Has lived at the present address 15 years. Employed by the General Electric Co. at East Boston. Has one son, George J., jr. His wife's name is Anne. Information given by his wife.

Q. What information have you in regard to John Cuneo, registered at the Hotel Central, certified as having voted at the primary and election in ward 5, precinct 8?—A. John Cuneo, registered and voting from the Hotel Central, lives at 1072 Bennington Street, East Boston. Married and has one child 5 years of age, who attends the Blackinton School in East Boston, and another child 15 years of age who attends the Trade School for Girls on Massachusetts Avenue,

Boston. He is employed as wine clerk. Has lived at the present address 16 years. His wife testified to this.

Q. What information have you in regard to Patrick H. Sheehan, 19 Causeway Street, certified to having voted in the primary and election in ward 5, precinct 8?—A. Patrick H. Sheehan, registered and voting from 19 Causeway Street, lives at 40 Hall Street, Jamaica Plain; printer; works for Strieder & Co., cigar-box manufacturers. Lived on Hall Street five years. Statement was given by his mother.

Q. What information have you in regard to Henry R. Gray, registered from 1 Dillaway Street, certified as having voted in the primary and election in ward 5, precinct 10?—A. Henry R. Gray, registered and voting from 1 Dillaway Street, lives with his wife and family at 8 Bardwell Street, Jamaica Plain. He has lived there two years. Previous to that time he lived in the city of Revere, where he paid a school tax for his children. This property at 8 Bardwell Street is owned in the name of Mrs. Gray. Henry Gray is in business at 27 Broad Street as a hide finisher. He has six children. One child attends the Bowditch and one attends the St. Leo's Parochial School. Mrs. Gray gave this information. He appeared at the ballot-law commission hearing and testified under oath that he lived at 1 Dillaway Street and that he voted from 1 Dillaway Street in the primaries.

Q. Was any cross-examination allowed of him at that time?—A. No cross-examination was allowed by the ballot-law commission.

Q. What information have you in regard to Edward F. McGinniss, registered at 117 Leverett Street, and certified as having voted at the primary and election in ward 5, precinct 4?—A. Edward F. McGinniss, registered and voting from 117 Leverett Street, is employed in the park department of the city of Boston, lives at 3 Trenton Street, Charlestown, which is not in ward 5. His mother, Bridget McGinniss, owns the property and gave the information.

Q. That is the Edward McGinniss that testified here?—A. Yes.

Q. What information have you in regard to Richard A. Roach, registered from 76 Green Street, and certified as having voted in the primary and election in ward 5, precinct 7?—A. Richard A. Roach, registered and voting at 76 Green Street, lives at 748 Cambridge Street, Cambridge, Mass., which is not in the congressional district nor a part of the city of Boston. He is married and has lived in Cambridge for 10 years.

Q. What information have you in regard to Thomas H. Corcoran, registered from the Derby House, and certified as having voted in the primary and election in ward 5, precinct 8?—A. Thomas H. Corcoran, registered and voting from the Derby House, lives in Brockton, is a member of the Brockton Lodge of Elks, and in order to become a member of the Elks was obliged to testify that he lived in the city of Brockton.

Q. That is the man who testified yesterday?—A. Yes.

Q. What information have you in regard to Francesco Di Pesa, registered from the Hotel Napoli, and certified as having voted in the primary and election in ward 5, precinct 9?—A. Francesco Di Pesa, registered and voting from the Hotel Napoli, lives with his wife, Amelia, at 133 Mountain Avenue, Revere, Mass., which is not in the tenth congressional district or the city of Boston. He has lived there 16 years. Information obtained from his wife.

Q. Amelia was the one that submitted a doctor's certificate at this hearing?—A. Yes.

Q. What information have you in regard to Joseph Di Pesa, registered from the Hotel Napoli, and certified as having voted in the election in ward 5, precinct 9?—A. Joseph Di Pesa, registered and voting from the Hotel Napoli, lives in Brookline with his brother, Marciano, and has lived there five years.

Q. From whom did you get the information?—A. Information from his daughter, Francesca Di Pesa.

Q. What information have you in regard to Isaac Gordon, registered from 128 Friend Street, and certified as having voted at the primary and election in ward 5, precinct 9?—A. Isaac Gordon lives at 7 Kelton Road, Brighton. He owns the house, and the information was given by his wife.

Q. She was the one that testified here?—A. She testified in court.

Q. Any children?—A. They have three children, 11, 8, and 2. The two older children attend the Winship Grammar School in Brighton.

Q. What information have you in regard to John J. Grant, registered from the Crawford House, and certified as having voted in the election in ward 5, precinct 9?—A. John J. Grant, registered and voting from the Crawford House, lived with his brother, Bernard Grant, 887 Point of Pines Boulevard, Revere,

up to three weeks ago, when he married. He is 35 years of age, and lived with his brother three years. The house he lived in is owned by his brother, Bernard Grant.

Q. Who gave the information?—A. Mrs. Morgan, who testified.

Q. She is the one who testified?—A. Yes.

Q. What information have you in regard to Raymond J. Reynold, registered from the Crawford House, and certified as having voted in the primary and election in ward 5, precinct 9?—A. John J. Reynold, registered and voting from the Crawford House, lives at 52 Powder House Boulevard, Somerville, which is not in the tenth congressional district nor the city of Boston. He is single; in the liquor business at 6 Green Street, Boston.

Q. He is the one who testified yesterday?—A. Yes. The information was given by his sister.

Q. What information have you in regard to Bernard B. Grant, registered from the Crawford House, 36 Court Street, and certified as having voted in the election in ward 5, precinct 5?—A. Bernard B. Grant, registered and voting from the Crawford House, lives at 687 Point of Pines Boulevard, Revere. Owns the house. Has lived there three or four years. Is married. Is in the trucking business and said to be a partner of Martin M. Lomasney.

Q. Any children?—A. No children.

Q. Information given by whom?—A. Information given by Mrs. Martin, who testified in this case.

Q. What information have you in regard to Charles F. Day, registered from 382 Hanover Street, and certified to as having voted in the primary and election in ward 5, precinct 1?—A. Charles F. Day, registered and voting from 382 Hanover Street, lives at 3 Way Place, Roxbury. Married. His wife's name is Lavinia. One boy, William, aged 11, who attends the Sarah Baker Grammar School of Roxbury. He has lived there three years and owns the property. Roxbury is not in the tenth congressional district.

Q. What information have you in regard to Charles W. Murphy, registered from the Hotel Lucerne, Causeway Street, and certified as having voted in the primary and election in ward 5, precinct 4?—A. Charles W. Murphy, registered and voting from the Hotel Lucerne, lives at 12 Wales Street, Dorchester. His wife's name is Gertrude. Employed in the Boston public lavatory. One child, 15 months old. Has lived there since October, coming there from 95 Geneva Avenue, where they lived two and one-half years. Information given by Mrs. Murphy.

Q. What information have you in regard to James McCaffery, registered from 135 Causeway Street, and registered as having voted in the election in ward 5, precinct 4?—A. James McCaffrey, registered and voting from the Hotel Lucerne, lives at 28 Stanley Avenue, Medford, which is not in the tenth congressional district and not in the city of Boston.

Q. Is he married?—A. Married. His daughter gave the information. Employed by B. F. Brown & Co., Fulton Street, as a shipper. Mother's name is Margaret. They have five children—Catherine, 21; Loretta, 19; James, 18; Paul, 15; Margaret, 13. She attends the Center Junior High School at Medford.

Q. What information have you in regard to Israel Mancovitz, registered from 49 McLean Street, and certified as having voted in the primary and election in ward 5, precinct 6?—A. Israel Mancovitz, registered and voting from 49 McLean Street; married and has a baby two months old. His wife lives in Dorchester. Has been working for the Fore River Ship Building Co.

Q. That is the one Mr. Mancovitz testified to-day was his brother and lives in Dorchester?—A. Yes. He was one of the precinct officers when the discrepancy in the manner of voting was found in the primary, 50 ballots being missing.

Q. What information have you in regard to Hugh F. Granger, registered from 4a Allston Street, and certified as having voted in the primary and election in ward 5, precinct 9?—A. Hugh F. Granger, registered and voting from 4a Allston Street, lives at 418 Cambridge Street, outside of the tenth congressional district. Is employed by the Boston Globe as a pressman.

Q. What information have you in regard to Thomas F. Gildea, registered from 4a Allston Street, and certified as having voted in the primary and election in ward 5, precinct 9?—A. Thomas F. Gildea, registered and voting from 4a Allston Street, lived at 7 Adams Street, Newton, and has moved to San Francisco, Calif., on the 4th of February, 1919.

Q. What information have you in regard to Ruggiero Di Pesa, registered from the Hotel Napoli, and certified as having voted in the election and

primary in ward 5, precinct 9?—A. Ruggiero Di Pesa, registered and voting from the Hotel Napoli, lives at 3 Wiggins Street, Boston, which is outside of the tenth congressional district. He is a tailor by trade.

Q. And the information was furnished by whom?—A. Angelo Carpenelli.

Q. Angelo Carpenelli, and he is the one that testified at this hearing?—A. Yes.

Q. What information have you in regard to Joseph F. Rae, registered from the Crawford House, Court Street, and certified as having voted in the election in ward 5, precinct 9?—A. Joseph F. Rae, registered and voting from the Crawford House, lives at 157 Naples Road, Brookline.

Q. Married?—A. Married. His wife gave the information.

Q. Any children?—A. One child, Edmund, aged 4½ years. Gertrude is his wife's name.

Q. What information have you in regard to Henry J. Fowler, registered from the Revere House, Bowdoin Square, and certified as having voted in the primary and election in ward 5, precinct 9?—A. Henry J. Fowler, registered and voting from the Revere House, lives at 125 Saint Botolph Street, suite 2. Married. Has lived there 2½ to 3 years. He and his wife are in the automobile business at the present time.

Q. Who gave the information?—A. Information obtained from Mrs. Clements, in suite 1.

Q. She is the one that testified?—A. She is the one that testified.

Q. What information have you in regard to John T. Finegan, registered from the Hotel Royal, and certified as having voted in the election in ward 5, precinct 8?—A. John T. Finegan, registered and voting from 141 Court Street, lives at 9 Hazel Park, Everett. Has lived there 15 years. Quartermaster at 73 Chelsea Street, Charlestown. Finegan gave the information himself.

Q. What information have you in regard to Frank B. Light, registered from the Lincoln House and certified as having voted in the election in ward 5, precinct 8?—A. Frank B. Light, registered and voting from the Lincoln House, lives at 582 Massachusetts Avenue, which is not in the congressional district. He has lived there two years. He is in the liquor business at 1627 Washington Street.

Q. Married?—A. No. Information obtained from his landlord, Mr. Halligan.

Q. What information have you in regard to Francis E. Murphy, registered from the Lincoln House, and certified as having voted in the election in ward 5, precinct 8?—A. Francis E. Murphy, registered and voting from the Lincoln House, lives at 236 Geneva Avenue, Dorchester, which is not in the congressional district. He is married. His wife works in the navy yard. His father owns the Lincoln House. Previous to his marriage, a year ago, he lived with his folks. Lives on the top floor at 236 Geneva Avenue.

Q. What information have you in regard to Charles A. Smulovitz, registered from 37 Leverett Street, lives at 157 Highland Street, Roxbury, which is not election in ward 5, precinct 4?—A. Charles A. Smulovitz, registered and voting from 37 Leverett Street, lives at 157 Highland Street, Roxbury, which is not in the tenth congressional district and has lived there 3 years. He is married, has two children, Florence, 9, and Herbert, 6, and Florence attends the William Cullen Bryant grammar school. Herbert attends the Abby W. May primary school. He is employed as a waiter in the Hotel Lucerne. His wife's name is Lena and she gave the information.

Q. What information have you in regard to John J. Quain, registered from the Hotel Lucerne, and certified as voting in the primary and election in ward 5, precinct 4?

Mr. CALLAHAN. May I ask if John J. Quain's name appears on that certified list?

Q. Not only that, but the whole voting list is in evidence.—A. Registered from the Hotel Lucerne and lives at—

Q. Where does he vote from?—A. Votes from the Hotel Lucerne and lives at 154 Beacon Street, Somerville, and has lived there sometime. Employed at the rope walk in the navy yard. Information given by Mrs. Mary Higgins, who owns the property.

Thomas P. Murray, registered from 43 Hale Street, lives at 524 Massachusetts Avenue. He is an engineer by trade; now supposed to be in the Navy.

George Cook, registered from 213 Endicott Street; lives at 34 Willow Street, Somerville. Been there three years. He is a bartender at 164 Canal Street. He is married.

John Connolly, registered from 22 Chambers Street; lives at 67 Clifton Street, Dorchester. He is in the United States Navy training ship, Boston Harbor, and has been for about a year. He has lived at 67 Clifton Street for the past 10 years.

Daniel McElhinney, registered from 9 Chambers Street; lives at 84 Revere Street, and gave the information himself. He is married and his wife's name is Sarah. He has lived at that address for about two and one-half years. Has one son, John. This is not in the congressional district. None of these that I have given to you are; Clifton Street is not, or Somerville.

Bernard A. Swansey, registered from 185 Harrison Avenue; lives at 1 Regent Square, and has for over a year. His aunt, with whom he lives, gave the information.

Dennis F. Quinlan, registered from 83 Green Street; lives at 132 Halleck Street, Roxbury, which is not in the congressional district. He has lived at that address for over two years.

George H. Carter, registered from 10 Lynde Street; lives at 71 Highland Street, Chelsea, which is not in the city of Boston nor the tenth congressional district. Married and lived at his present address two and one-half years. Wife's name in Henrietta. Employed by the Boston Consolidated Gas Co.

George W. Fowler, registered from 30½ Causeway Street; lives at 29 Mountain Avenue, Melrose, which is not in the tenth congressional district. He has lived there three and one-half years. Employed at the Berwick House.

Andrew Veggio, registered from 332 Hanover Street; lives at 17 Dexter Street, South Boston. Employed by the Kennedy Clothing Co. Lived there for eight years. Information obtained from his sister.

Mr. BROGNA. He has been summoned, has he, Mr. Tague?

A. I suppose so. Victor Hangene, registered from and voting from 57 Cambridge Street; lives at 362 Tremont Street. Both parents now dead. Four children, including Victor, own the property. Victor is a policeman and connected with station 3.

Lewis W. Dempsey, registered from 75 Causeway Street; lives at 275 Walnut Street, Lynn, and he has lived previous to that at 7 Ravana Terrace, Lynn, for three years. Is a bartender employed at the Lincoln House, Boston. Informant, sister, Ella M. Dempsey.

Jerome J. McCarthy, registered from 39 McLean Street; lives at 3 Revere Street, Winthrop. Interviewed his wife, who said that he was a court officer, and they had no children. Property is owned by a Mr. M. Murphy, who has lived there three years.

Joseph Riley, registered from Youngs Hotel, Court Square; is a relative of Joseph Lomasney, a clerk in the supreme judicial court, and lives in Dorchester.

John R. Murray, registered from the United States Hotel; is a clerk in the courthouse, and lives in Brighton. None of these are in the tenth congressional district.

Q. Now, Mr. Tague, you testified that Joseph F. Walsh, registered from the Merrill House, lived at Rockville Park and that he testified before the ballot law commission, under oath, that he lived and his home was at the Merrill House, where he is registered. Will you state whether or not your attorney had an opportunity to cross-examine Mr. Walsh at that time?—A. He did not. You might say that he asked special permission to summons Joseph Walsh.

Q. On what ground did he ask special permission?

Mr. BROGNA. If the ground was stated.

A. Mr. O'Connell stated at that time that he wanted Mr. Walsh to show that he did not live in the district he was registered and voted in.

Q. What particular reason was given for singling Walsh out from the rest?—

A. Because we had Walsh's record and he had been challenged.

Q. Challenged in the primary?—A. Challenged in the primary.

Q. Now, this information you have given, Mr. Tague, is based upon your own belief from information given you and what you know yourself?—A. Yes.

Q. And is put in as a result of the failure of these witnesses who have been summoned to appear here?

Mr. BROGNA. Just a moment.

Q. And the record of the summoning is already in the record. Now, I am going to ask you about the kind of houses that these places are distinguished as having been challenged by you. For instance, what kind of a place is the Hotel Lucerne from which they are registered? What precinct is that?—A. Precinct 4.

Q. I call your attention to the Hotel Lucerne in which forty voters are upon the list. What kind of a house is that?

Mr. BROGNA. Now, I object to that question. Please note my objection.

A. The Hotel Lucerne is what is known as a cheap barroom hotel that is run almost entirely for the liquor end of it Sundays and holidays and after hours, and is not occupied by people who would make it a home.

Q. Do you know whether it is one of those places that is put into the restricted class by the Army and Navy officials connected with the welfare and morals of men in the service?—A. It was.

Mr. BROGNA. I object. The way to prove that, Mr. O'Connell, is to put in the records of the Army and Navy officials.

Q. You know they have made their report to the Boston Excise Board?—A. I do. I have investigated it.

Q. And it was called to your attention as a Member of Congress?—A. I got a letter naming certain hotels in the Boston district as not fit for sailors and soldiers to frequent.

Q. Any respectable woman go to the hotel?—A. I don't think she would if she knew what it was.

Q. What do you say about the St. James?—A. The St. James is now an alleged notorious resort, also restricted and been put before the excise commission. Also a barroom hotel. Nobody goes there but a class of people that would not go to a decent hotel anyway.

Mr. BROGNA. Note my objection.

Q. In order that the record may be clear in regard to these hotels, is this a condition, that nobody in Massachusetts can sell liquor on Sundays and holidays except a hotel keeper?—A. That is true.

Q. In order to sell liquor on Sundays and holidays these men take out licenses?

Mr. BROGNA. I object to that.

A. They do.

Q. And you say the principal business of the Hotel Lucerne is from the liquor traffic on Sundays and holidays?—A. It is.

Q. What do you say about the Central Hotel on Green Street?—A. The Central House is a resort even worse than the Hotel Lucerne. It is a liquor hotel and it is inhabited by a class of people that inhabit cheap hotels for liquor reasons, for the purpose of getting liquor.

Q. There are a large number registered from that house?—A. There are a great many.

Q. The Hotel Hamilton, what do you say about that?—A. The Hotel Hamilton on Court Street was formerly the Heidelberg and is another hotel where men and women go to get liquor.

Q. Does a respectable woman ever go there? Has any respectable woman ever been seen there?—A. I don't think so.

Q. What do you say about the Hamilton?—A. That is the Hamilton, the Heidelberg.

Q. Formerly called the Heidelberg?—A. Formerly called the Heidelberg. The proprietor lives in Brookline and votes there and is registered from there.

Q. What about the Hotel Royal?—A. The Hotel Royal has beds for 25, 30, and 50 cents a night.

Q. Is that the kind of hotel where they let rooms several times a night?—A. Let it as often as they can, and it is inhabited by poor fellows, down and out, mostly.

Q. What kind of women resort there?—A. I don't think any women go in there. I don't know.

Q. Has it ever been known as a place where men have their permanent home?—A. No; I didn't know; the back of the hotel has an entrance on Sudbury Street and is resorted to by men and women. The place on Court Street is resorted to by men.

Q. Has it been called to the attention of the police as violating the law?—A. It has.

Mr. BROGNA. Note my objection.

Q. Is that its reputation, that it is a house resorted to by characters of unsavory reputation?—A. Yes.

Mr. BROGNA. I object.

Q. That is the house which Mrs. Galvin testified the man did not dare to leave his clothes?—A. That is the house.

Q. What do you say about the Lincoln House?—A. The Lincoln House is another one of these barroom hotels, opposite the station, inhabited by people who go there for liquor.

Q. Is that the place that Abraham Finkelstein testified that his name had been placed by members of the Hendricks Club?—A. It is.

Q. And in all of these places great numbers of men have been registered and voted from?—A. Yes; a great many of them.

Mr. O'CONNELL. At this time I refer to the voting list and incorporate into the record the number of those who voted from the Royal Hotel, Hotel Lucerne, Central Hotel, Hamilton House, Lincoln House, the Vienna House, the Revere House, the Berwick House.

Q. Now, do I understand you to say all of these houses have been put in the restricted list by the Army and Navy?

Mr. BROGNA. I object.

A. They have.

Q. What do you say about the Revere House?—A. The Revere House was once a respectable hotel, but since has deteriorated, and anybody who wanted to go to a respectable hotel to-day would not go there with the people associated in the hotel, and they have been brought before the courts. I believe there is a case pending now.

Q. Brought to abate the hotel as a nuisance?—A. It was.

Q. On account of the immorality practiced there?—A. It was.

Q. There are a large number registered from the Revere House and voting in the Democratic primary and election here?—A. Yes; I think there are 35 or 50.

Mr. BROGNA. Why not refer to it and get it right?

Mr. O'CONNELL. Yes; and this time I will refer to it as the number established by the voting list as those who voted from the Hotel Revere.

Q. Do you know what 19 Causeway Street is?—A. Yes; it is an old house of three stories, with a slant roof. The house over the stores is occupied by a man named McNulty, who lets cots which are set up on the floor like bunks. There are no rooms. The bunks are two-tiered, one stretched along the floor. No privacy, and it is a room where——

Q. This is the house from which there are 60 registrars, as shown by the police list, and there are about 30 voters from that place?—A. From the information I get there are 16 cots in the place and there are over 35 registered from the house.

Q. And voting from that place?—A. Voting. Mr. McNulty was summoned to appear and left town.

Q. This is the Mr. McNulty Mr. Pierce, in his testimony had here yesterday, said lived up on Temple Street, in another congressional district?—A. That is the man. Like most of them, he does not live in the place.

Mr. BROGNA. I object to that and ask that it be expunged from the record.

Q. What do you know of the Hotel Rexford?—A. The Hotel Rexford. It is too bad to further particularize.

Mr. BROGNA. I object to that.

Q. What kind of people resort to the Hotel Rexford?—A. The kind that could not go to a big hotel in Boston.

Q. Any respectable man and woman go to it?—A. I don't think so; and there is the Derby House, the Windsor, the Merrill House, and the Royal.

Q. What kind of places are those?—A. Cheap boarding houses where the lists have been patched up. Most of the people don't live there. The Derby House has been shown to carry a list year after year for the police, which was made up by the proprietor. He has testified that he lives in Cambridgeport and has his telephone there.

Mr. O'CONNELL. I think that is all, Mr. Brogna.

Cross-examination by Mr. BROGNA:

Q. Mr. Tague?—A. Yes, sir.

Q. It is now 20 minutes past 6 and you have been testifying since about 2 o'clock. That is true, isn't it?—A. It was after 3 o'clock, because there were two or three witnesses ahead of me.

Q. After 3 o'clock, and you have been testifying regarding several hundred names of persons who appear on the voting list?—A. I have.

Q. And the testimony which you have given you have given as though it were within your own personal knowledge?—A. It is within my personal knowledge.

Q. In giving this testimony you have been reading from certain notes or reports, have you not?—A. Reports that I made up myself.

Q. Now, let me see the reports from which you read. Will you insert it in the record, please. I have asked for these reports which Mr. Tague used in testifying to-day.

Mr. O'CONNELL. Just a minute. What do you want to get excited about?

Mr. BROGNA. I have requested the notes and reports from which Mr. Tague has testified for the past three hours and they are on the table here and they have been refused—and I have not been allowed to refer to them.

Notary BERMAN. Why, you know as a lawyer, Mr. Brogna, that notes which a witness uses for the purpose of refreshing his memory are not evidence.

Mr. BROGNA. They may be examined by other counsel on the other side in any court of law.

Notary BERMAN. I have never heard of such a law.

Mr. BROGNA. That is the law. You can rule otherwise.

Notary BERMAN. I rule, if it becomes necessary: You have no right to examine those papers.

Q. What are those papers from which you have been reading?—A. They are memorandums which I have made on these odd names.

Cross-examination by Mr. CALLAHAN:

Q. Some of the papers from which you testified, Mr. Tague, are papers used by Mr. O'Connell for cross-examination, are they not?—A. Furnished by me.

Q. And these papers are full of descriptions of persons and their names and the ages of their families, etc.?—A. They are, some of them.

Q. You did not make any investigation of these different persons, acquiring the information personally?—A. I certainly did.

Q. Do you mean to say you went to the homes of over 200 persons, I believe you testified to?—A. I did not think that was necessary.

Q. Did you acquire that information that way?—A. Not all of it.

Q. Will you tell us how you acquired this knowledge of these intimate family affairs of these 200-odd people?—A. No; I will not tell you.

Q. Didn't you, as a matter of fact, get that information from other investigators?—A. Some of it.

Q. Didn't you get all that information?—A. No.

Q. Isn't it true, Mr. Tague, from the lists furnished for Mr. O'Connell in his examination of the witnesses, these lists were not prepared by your investigation?—A. A great many of them were.

Q. How many?—A. I don't know.

Q. Will you give us the names of any persons you furnished from your own investigations?—A. Patrick McCarthy.

Q. Who else?—A. Joseph Walsh.

Q. Anybody else?—A. Henry Gray.

Q. Can you give us the names of 10 persons?—A. Yes.

Q. All right. What investigation did you make?—A. I investigated this Mr. Gray who lives at Dillaway Street. I know Mr. Gray.

Q. Did you go to Dillaway Street?—A. I did not have to.

Q. What investigation did you make?—A. Enough to satisfy myself.

Q. Did you personally make an investigation?—A. Yes. I went in the daytime to the home on Bardwell Street.

Q. Did you go to the west end to see if Mr. Gray was listed in the west end?—A. Mr. Gray is not listed in the west end.

Q. Didn't you refer to Henry Gray?—A. Yes.

Q. Isn't he the west end?—A. Ward 5.

Q. Did you go to his house?—A. Yes.

Q. Do you want to say these lists you read were made from your own personal knowledge?—A. A great many.

Q. Do you know which were not made from your own personal knowledge?—A. Not a great many.

Q. Isn't it true you had some investigators out?—A. Yes.

Q. Did you have three?—A. Yes.

Q. Did you have five?—A. Yes.

Q. Are you sure you had five?—A. Yes.

Q. Are you sure you had more than five?—A. I don't know just how many. I have had investigators in the last three months out and all my friends have been investigating.

Q. Will you give us the names of the investigators?—A. No.

Q. Will you give us one?—A. No.

Q. Isn't it true all the information you have got that you have testified to here to-day was secured from these investigators?—A. Positively, no.

Q. Isn't it true most of the testimony you have offered here to-day has been secured from these investigators?—A. No.

Q. Have you had any investigators, Mr. Tague, connected with any Government department doing this work?—A. No.

Q. Have you had any investigators connected with the War Risk Insurance doing this investigation?—A. Not that I know of.

Q. Will you reflect for a moment and tell us whether this is so or not?—A. I don't know.

Q. You don't know of these investigators. Is that so?—A. No.

Q. And you want us to understand now you have had investigators out and they have come and reported to somebody else. Is that so?—A. Some reported to me.

Q. And some reported to somebody else?—A. Maybe Mr. O'Connell.

Q. And some to Mr. Harrington?—A. I don't think so.

Q. And some to Mr. Goodwin?—A. I don't think so. Some may to Mr. Harrington.

Q. These investigators you have had out and they reported to Mr. O'Connell, Mr. Harrington, and Mr. Goodwin —A. Did not report to Goodwin.

Q. But to Mr. O'Connell or Mr. Harrington?—A. Or myself.

Q. They did not all report to you?—A. Most of them did.

Q. Would you say most of them reported to you and those that reported to Mr. O'Connell or Mr. Harrington you got the results of the investigation from Mr. O'Connell or Mr. Harrington? Isn't that so?—A. Yes.

Q. So there is some testimony here, you will admit, which you testified to to-day which was not made directly to you?—A. It has all been made to me. I have had charge.

Q. Exactly. It was made to you, but was it made directly to you?—A. Most of it was.

Q. Won't you answer my question?—A. I will try to answer your question.

Q. Isn't it true what you have testified about in the last few moments, you have given to-day, or read into the record is information you have not secured yourself? Isn't that so?—A. I don't think so.

Q. Do you want to take back your statement that certain investigators reported to you or Mr. O'Connell or Mr. Harrington?—A. No; every item that came in I investigated it myself.

Q. You have reports on 200 of them?—A. Four hundred, and I will have 1,000 to-morrow or the next day.

Q. All right. More power to you, if you can get them.—A. I have got them.

Q. You say some of them reported to you and some reported to Mr. O'Connell and Mr. Harrington. Didn't you say that, Mr. Tague?—A. Yes.

Q. If that is the case, Mr. Tague, the information you gave is a result of some of these investigators' work you have gotten from Mr. O'Connell and Mr. Harrington? That is true, isn't it?—A. Yes.

Q. So it is true all the evidence you have given here is not first-hand evidence?—A. It has been verified by me.

Q. All right. Let me see if it has. What did you do to verify the work of the investigators —A. I have been investigating myself.

Q. When did you do this investigation?—A. The last three months. The last four or five months.

Q. The last four or five months. Yes. During that time weren't you a considerable amount of the time in Washington?—A. Yes.

Q. And you were not investigating then?—A. I was when I was here.

Q. Were you when you were in Washington?—A. Yes; sure.

Q. And you left your investigation with somebody else?—A. Mr. Harrington and Mr. O'Connell.

Mr. O'CONNELL. I have been pretty busy myself.

Mr. CALLAHAN. I know you have.

Mr. O'CONNELL. You have no objection to a lawyer's getting his case ready?

Mr. CALLAHAN. If you will allow me to examine Mr. Tague.

Q. If you did not verify all these investigations I understand, now, Mr. O'Connell or Mr. Harrington did?—A. I suppose they did.

Q. And in the case of the investigations you were satisfied to have Mr. O'Connell verify them?—A. No; I told you distinctly I verified them myself before they came in here.

Q. Will you show me any notes among those which Mr. O'Connell used in cross-examination made out in your own hand?—A. You saw them all type-written, didn't you?

Q. Will you show me any of those notes?—A. I will show you quite a few.

Q. Will you show me those notes?—A. I don't think so.

Q. Will you allow counsel to show me those notes?

Mr. O'CONNELL. I am not on the stand. Those are my personal notes. I don't see why I should turn them over to you. They may be all right in your hands, but I don't think they will get back if they get them.

Mr. CALLAHAN. Of course, that is a ridiculous statement to make. I am here with Mr. Brogna with about 15 friends of yours.

The WITNESS. I don't think you should say 15 friends of mine. All the people in this room are friends of mine, you included.

Q. And there are some of these men who are boosting you for the House —
A. All the evidence submitted here is in the presence of the newspaper men representing the newspapers of Boston.

Q. That is all the more reason why I should be permitted to see these papers.

Mr. O'CONNELL. I will say this, Mr. Callahan: I presume you are taking as much time as possible. Evidence has been put in here of a kind that necessitated secondary evidence, witnesses summoned by summonses delivered in hand or at their last place of abode have refused to come here, and so we have been obliged to put into the record testimony in accordance with the principles of law—secondary evidence. Possibly the best way is to test Mr. Tague's personal knowledge, a knowledge acquired from all sources. He has given you that to the best of his ability. That does not permit you to inquire for personal notes I have used in this case. I have never heard it advanced counsel had a right to use private notes made by the other side in the preparation of their case.

Mr. CALLAHAN. Well, I supposed that I could use these notes if you permitted me to use them, and unfortunately it is the case and it is always the case when a person is not afraid, with perfect candor and without any questioning, they accommodate counsel.

Mr. BERMAN. What is the use, gentlemen, of wasting time on this question? Mr. Callahan knows he has no right to those notes.

Mr. CALLAHAN. Why do you say we have no right?

Mr. MANCOVITZ. We insist we have.

Notary BERMAN. You know you have no right.

Mr. CALLAHAN. I know I have.

Notary BERMAN. You are altogether too good a lawyer to think for a moment you have.

Mr. CALLAHAN. It is very consoling for you to say that and it is very nice for Mr. O'Connell to interpose here. But I think we will ask Mr. Tague a few more questions.

Mr. O'CONNELL. You are perfectly free to question Mr. Tague all night.

Mr. CALLAHAN. I have never seen counsel, when a witness was on the stand and the accuracy of his statements depended on papers in front of him, that he was not willing to have counsel see those papers. I can only say it is a reflection on the testimony of Congressman Tague.

Mr. O'CONNELL. Every bit of his testimony is on record. Most of it is references to the Boston City Directory. You have access to the Boston City Directory. That testimony is at your disposal. There are plenty of copies of the directory to be had.

Mr. CALLAHAN. I still say this, you and your friends have made some comments, and you know perfectly well, sir, you have no right to introduce the contents of the directory through Mr. Tague. You have to have either the directory or the persons who compiled it here. All this evidence is inadmissible, and you should have the directory to prove them, because you are the one who has put in your evidence wrong, and you know it, and you have done it deliberately.

Mr. O'CONNELL. I have done nothing wrong.

Mr. CALLAHAN. You have absolutely disregarded every rule of evidence in the representation of your case, and you know it.

Notary BERMAN. These arguments are all right, but I don't think this is the place for it.

• Mr. CALLAHAN. Mr. Tague, we will get back to those papers.

Mr. O'CONNELL. Bring in your witnesses.

Mr. CALLAHAN. You know perfectly well your evidence will not be considered unless you present it properly.

Q. Talking about directories, do you know when the directories are compiled?—A. Yes; I think they are compiled every spring.

Q. Do you know?—A. No.

Q. Did you make any inquiries?—A. No.

Q. In making your examination of the names of persons who were in the directory in 1918, didn't you take the trouble to see when that 1918 directory was compiled?—A. The 1918 directory is recognized as an official document by every man in the commercial world or society as being the only evidence you have to find where a man lives.

Q. It is the only evidence?—A. It is the only evidence recognized in business to-day unless they have a direct account on a listed concern.

Q. Will you still answer my question. Do you know when it is compiled?—A. No.

Q. And you didn't make any inquiry to find out when it was compiled?—A. No.

Q. You don't know whether it is compiled in the first of the year or the middle of the year, do you?—A. No; but I was very careful to examine two directories, that of 1918 and 1917.

Q. And in making your comments on the directories here in this evidence to-day, you did not testify directly from the directory itself?—A. I testified from minutes made from the directory by myself.

Q. When you testified to the names of these people and you made reference to the directory, you did not testify directly from the directory?—A. No.

Q. That is, there was no directory in this room and in making your comments from the directory, you did not have it before you?—A. No.

Q. And when you made comments on the directory, it was from notes you had made somewhere else?—A. Yes.

Q. There is nothing in this case and nothing in this evidence to show you got that out of either the 1917 directory or the 1918 directory except your own statement. That is so, isn't it?—A. That is all I know.

Q. Now, it is also true, Mr. Tague, when you testified to the fact that some persons' votes were challenged, that you had no personal knowledge of these challenges yourself?—A. Oh, yes, I had.

Q. In the case of Di Fatta, that you said his vote was challenged, you were not there when his vote was challenged.—A. I can say, if not, just find out where each one lived and I will tell you.

Q. It came very quickly to your lips this afternoon.—A. Yes; I had my notes before me.

Q. You had your notes before you?—A. I could not remember 400 cases and give you any without some notes.

Q. Exactly; and I am perfectly satisfied for you to use your notes.—A. I think I have a right to use notes.

Q. You have a right to use notes made by yourself.—A. That is what I say.

Q. You have no right to use notes made by someone else, and that is why your counsel does not want me to have those notes.—A. The greater part of them were made by myself.

Q. You have not the names before you?—A. No.

Q. I have the names of a few persons you made rather lengthy reference to this afternoon. There is a name here I wrote down, T. M. Rudd. Do you recall that name?—A. Yes; I know Mr. Rudd.

Q. You know Mr. Rudd?—A. Yes, I know him.

Q. Take the name of Jeremiah Gallagher.—A. I know Jeremiah Gallagher—he is an inspector and lives in Dorchester.

Q. Take the name of George R. Shankin.—A. George R. Shankin lives at 164 Commercial Street. Registered from the Merrill House.

Q. Thomas Deely.—A. I could not find him.

Q. Take the name of William J. Murphy.—A. Which one; the Hotel Lucerne?

Q. William J. Murphy.—A. Which one? There are two on the list.

Q. Tell me the two of them.—A. There is one from the Hotel Luzerne.

Q. Where is the other?—A. I think at the Merrill House or the Revere House.

Q. All right. Now, the man that is at the Hotel Luzerne. Will you tell us about his family?

Mr. O'CONNELL. He did not testify to that.

Mr. BROGNA. Wait a minute.

Mr. O'CONNELL. That is just what we will do. He did not testify about that.

Mr. CALLAHAN. Mr. Tague has had as much experience as you and he can testify a great deal better than you.

Mr. O'CONNELL. I should hope so. They say lawyers make poor witnesses.

Q. Will you give us the family history of Mr. Murphy?—A. I don't think I can right off without consulting my papers.

Q. If these were personal notes you made you would have no difficulty.—A. I think I would when I am referring to four or five hundred names. I don't think you could. You picked out some and I have answered them.

Notary BERMAN. That refers to anyone?—A. Yes; that refers to anyone, and I can answer lots more of them, too.

Q. We will give you a chance to answer more of them.—A. Go as far as you like.

Q. What about Daniel P. Kelley?—A. Daniel P. Kelley lives in Roxbury. Wife dead about four months.

Q. Where is he registered from?—A. I don't know just the address, but I know it is not the West End.

Q. You can not do it without your notes?—A. Yes. I can do it without my notes.

Q. I was here a little while this afternoon, and in these names there were called off while I was here you referred to the names of Rudd and Charles F. Clark. Charles F. Clark was on a red list. Don't say that that is not so.—A. I have told you I know Clark. Tell things as they are.

Q. I simply say, in each case you referred to these red notes, the ones in red type.—A. I did not.

Q. And I marked that down on him.—A. No, you did not.

Mr. O'CONNELL. These are not on red notes. They are on black notes.

Mr. CALLAHAN. No, they are on red.

Notary BERMAN. What difference does it make?

Mr. CALLAHAN. Wait a minute. This is cross-examination.

Mr. TAGUE. I will answer any question, and I will answer it fairly.

Mr. CALLAHAN. So I think; and that is the reason you should not have this interference from outside. I don't think you need any help. You were elected to Congress by some of these very fellows you have given evidence about.

Mr. TAGUE. I am elected.

Q. Take the case of Michael F. Durant.—A. Michael F. Durant; know him very well. He was in the barrel business in Somerville a number of years. Down from Billerica Street. Does not live there; never did live there. He is a man worth forty to fifty thousand dollars, and I think he is on his way to California.

Q. Good luck to him. He has not run away from the \$1,500.—A. I don't think he would need to.

Q. Do you want to say, Mr. Tague, in making your report to-day, or giving this evidence this afternoon, you did not refer to these notes that were typed in red?—A. I have told you a dozen times I have referred to notes, none of which are typed in red.

Q. Are you willing to give us these notes?—A. I am not in a position. Mr. O'Connell has the notes.

Q. Isn't this a subterfuge?—A. I never resort to subterfuge.

Q. Did you get your instruction from Mr. O'Connell?—A. I have no instruction from Mr. O'Connell.

Q. Has he instructed you?—A. Mr. O'Connell does not instruct me. I give him instructions.

Q. Is it true Mr. O'Connell has instructed you?—A. He did not.

Q. It is true Mr. O'Connell will not give us the notes.

Mr. O'CONNELL. Who says so?

Mr. CALLAHAN. You say so.

Mr. O'CONNELL. I am not on the stand. You are talking to Mr. Tague. Don't put me in there.

Mr. CALLAHAN. Will you give us the notes?

Mr. O'CONNELL. You are cross-examining Mr. Tague. When you get through I will talk with you.

Q. It is true Mr. O'Connell has refused to give us these notes?—A. I have not heard him refuse. He has said he would talk with you.

Q. Aren't you quibbling?—A. No; I don't quibble.

Q. Don't you?—A. No. This thing is too serious to quibble with.

Q. Are you telling the truth?—A. I am.

Q. Do you mean to say I have not asked him in your presence?—A. That has nothing to do with it—what you have asked.

Q. Haven't I asked Mr. O'Connell?—A. It is none of my business what you asked Mr. O'Connell.

Q. Well, let us consider for a moment it is not your business.

Mr. O'CONNELL. Of course, Mr. Callahan, a lawyer has no right to take personal notes made by the lawyer on the other side, and I am willing to take it up with you.

Q. Isn't it true—what else is a fact or not a fact—isn't it true that I have asked Mr. O'Connell in your presence for the notes you used in refreshing your recollection to-day; isn't it true?—A. Yes.

Q. And hasn't he refused to give me those notes?—A. I have not heard him refuse. He has not given them to you.

Q. There are the makings of a good lawyer in you.—A. No; never.

Q. And not only has Mr. O'Connell refused to give us those notes, but on my request you have refused to ask Mr. O'Connell to let me take those notes. That is true, is it not?—A. The notes are not in my possession.

Mr. O'CONNELL. Let us straighten this out.

Mr. CALLAHAN. You insist I ask the questions from Mr. Tague.

Mr. O'CONNELL. Don't you want my assistance?

Mr. CALLAHAN. No; I want no assistance from you.

Mr. O'CONNELL. I am willing to facilitate it, but if you don't want to take the matter up—I have made my offer to you and if you don't want it, good night.

Mr. CALLAHAN. Good night, and good riddance.

Q. Now, Mr. Tague, you testified about Mr. McCarthy with great confidence.—A. No; I did not.

Q. You say you did not testify about Mr. Jerome McCarthy?—A. Jerome McCarthy, registered from McLean Street, lives in Winthrop.

Q. He was one of the last men you testified about, wasn't he?—A. I think so.

Q. What testimony did you give about Jerome McCarthy?—A. I think I testified—wait a minute. I know what I am doing. Don't be alarmed.

Q. If they would only let you alone——A. They don't have to leave me alone. Jerome McCarthy is registered from McLean Street, lives in Winthrop, owns the house in Winthrop, and he and his wife have no children, no family. Has lived in Winthrop several years and is registered from McLean Street, and does not live there.

Mr. BROGNA. I object to Mr. Harrington whispering something to the witness.

The WITNESS. He has not said anything to me.

Notary BERMAN. Mr. Harrington was talking to Congressman O'Connell.

Q. Will you go on and complete your testimony in regard to Mr. McCarthy?—A. I have testified.

Q. You have? In your testimony this afternoon—in your direct examination you read into the record that the information was furnished by Mrs. McCarthy.—A. I don't think so.

Q. Wasn't that read into the record?—A. I don't think so.

Q. Will you say positively?—A. I don't think so.

Q. You think nothing was said about Mr. McCarthy's wife?—A. Yes.

Q. You are sure of it?—A. Yes. I will not say she was not interviewed.

Q. Interviewed by you?—A. Yes; an interview in the home in Winthrop, and denied she was Mrs. McCarthy, but was a woman taking care of the house.

Q. I am not asking you about the interview of Mrs. McCarthy now. I am testing your memory and accuracy.—A. You don't expect me to stand up here and give word for word every word in four hours?

Q. I am asking——A. I am testifying in regard to what, in substance, was there.

Q. I asked you if a certain thing was said, and you said, "No," and you said you would stand on it.—A. Pardon me. I said I did not testify to it.

Q. You testified about the principal income of the Hotel St. James.—A. No; I did not. Now, you are getting your information from some one else.

Q. All right. What did you say about the St. James?—A. I said the St. James was a liquor hotel and got its greatest income from it; it was in disrepute in Boston and was on the list. It was not the St. James Hotel, but was the Coolidge House.

Q. You have no personal knowledge of how the income is derived?—A. I am not talking about the income, except I said the hotel was run with that the principal business.

Q. The income would be derived from the principal business?—A. Yes.

Q. How do you know it is their principal business?—A. Oh, I know a little about business.

Q. You didn't take a drink there?—A. No; thank God.

Q. And you never were in there to take a drink?—A. No; and that is another thing I thank God for.

Q. And all the informaton you have to give is information you have gotten from some one else?—A. No; I read the papers.

Q. You were never in the hotel?—A. I have admitted that.

Q. Could you testify in court from information you received from the newspapers?—A. I don't suppose it would be admitted.

Q. The Hotel Royal, Mr. Tague; what knowledge have you got of the Hotel Royal?—A. I know that the Hotel Royal is down on Court Street.

Q. You were never in it?—A. It rents beds for 15, 25, 50, and 75 cents a night. I don't think you would go there. I know I would not.

Q. Now, you were never at the Hotel Royal?—A. No.

Q. You were never inside its doors?—A. No.

Q. And you know nothing of the conduct of these persons?—A. No.

Q. Except what somebody told you. That is so, isn't it?—A. I don't think anybody has told me.

Q. You could not acquire it any other way if you did not know it?—A. We had some witnesses who testified before you she was not willing to even allow the man to leave his clothes there. They would steal them.

Q. Do you base all your knowledge of the Hotel Royal on that witness?—A. No.

Q. As a matter of fact, you have never been in the hotel?—A. No.

Q. You know nothing of the class of its business?—A. I know what hotels of that general class businesses are.

Mr. CALLAHAN. I am going to say right here, I am going to reserve the right and I serve notice on you at this time that I reserve the right to cross-examine Mr. Tague at length on his testimony out of our own time, and I intend some day to summons Mr. Tague solely for the purpose which will then give us an opportunity to go very thoroughly into this list and to examine him in detail on this list. I give him opportunity to familiarize himself with this evidence and also——

Mr. TAGUE. I don't need to.

Mr. CALLAHAN. And the opportunity to go over these 400-odd names.

Mr. O'CONNELL. Do I understand by that, then, you are extending our time for the presentation of this case?

Mr. CALLAHAN. You misunderstand me. No; I simply say I will take it out of my time to cross-examine Mr. Tague.

Mr. TAGUE. Do I understand, Mr. Callahan, you are going to ask me to testify on your time?

Mr. CALLAHAN. I am going to summons you.

Mr. TAGUE. You don't need to. I will come any time you want me.

PETER F. TAGUE.

Deposition of HERBERT N. PEAK:

Mr. CALLAHAN. Before Mr. Peak testifies, may I object to his testifying, merely because we have received no notice.

Mr. O'CONNELL. He is a voluntary witness, and he is here to identify some photographs.

(Mr. Peak, sworn.)

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Herbert N. Peak.

Q. And at the request of Mr. Kane, secretary of Mr. Tague, did you make some photographs of 19 Causeway Street?—A. I did.

Q. Are these the photos you made?—A. They are.

(Exhibit 58, photograph of 19 Causeway Street.)

Q. This is a photograph of the third floor, 19 Causeway Street?—A. Yes.

Q. That is the third floor, where the beds are?—A. Yes, sir.

Q. What is on the first floor of that building?—A. Stores.

Q. What is on the second floor?—A. A pool room.

Q. And on the third floor?—A. Beds, and it is a lodging house there.

Q. On the third floor?—A. Yes.

Q. Is this a picture of the third floor, showing the five windows?—A. The dormitory.

(Exhibit 59, photograph of the third floor, 19 Causeway Street.)

(Exhibit 60, photograph of front entrance, 19 Causeway Street.)

Q. Showing you this photograph, which has been marked Exhibit 60, it shows a front view of the entrance——

Mr. CALLAHAN. Why don't you allow him to testify, Mr. O'Connell?

Q. Showing the sign, 15, 20, and 30 cents for a bed for a night and at this time I will refer to the voting list from 19 Causeway Street, and that evidence already in showing a large number of men registered and voting from 19 Causeway Street in the Democratic primaries and Democratic election last fall. What is that a picture of?—A. That shows the office and the left of the picture is the office and the right is the dormitory.

(Exhibit 61, photograph showing office and dormitory.)

Q. Were you upstairs in that house?—A. I was.

Q. What is 19 Causeway Street, so far as reputation is concerned?—A. Why, that is all. There is a dormitory.

Q. How large is it?—A. Why, I should say it was possibly 45 feet by 18.

Q. And what is it composed of?—A. Cots. There are 16 double cots. That is, there is a cot here and a cot above. Double-deckers, I suppose is the proper term for them, and there is a smaller room adjoining this which I term the office. There is a desk there, and to get in the dormitory you go in an interior door after you walk up, possibly three or four steps.

Q. Showing you another exhibit—A. That is taken from another angle.

Q. That is a view of the front of the building taken from another angle?—A. Yes.

Mr. O'CONNELL. And that will be marked "Exhibit 62." I think that is all.

Cross examination by Mr. CALLAHAN:

Q. When did you take these photographs?—A. I don't recall the exact date. It was recently.

Q. What is your business?—A. What is my business?

Q. Yes.—A. I have several different lines at present.

Q. What is your particular business?—A. I am in the insurance business.

Q. You are in the insurance business?—A. Yes.

Q. You are not a photographer?—A. I have done considerable photo work.

Q. You have never worked a photography?—A. Yes; I have worked at photography.

Q. Were you paid for taking these pictures?—A. I was.

Q. How much were you paid?—A. I think that is rather personal.

Q. Who paid you?—A. That also is rather personal.

Q. Why is it personal? It was a business transaction?—A. I was hired by Mr. Kane.

Q. How much did Mr. Kane pay you?—A. I will refer you to Mr. Kane.

Q. Where do you work in the insurance business?—A. Where do I work in the insurance business?

Q. Yes.—A. At the present time I work for offices here in Boston.

Q. Are you a broker?—A. No.

Q. What particular broker do you work for?—A. Is that necessary?

Q. I think it is. I would like to have an answer.

Mr. O'CONNELL. I don't think that we need to go into personal matters. The only question is if these are photographs of 19 Causeway Street.

Mr. CALLAHAN. You are not afraid of this witness, are you?

Mr. O'CONNELL. Not a bit, but I don't think we ought to harrass a man when he shows us a photograph of a building we have all seen.

Q. Don't you want to answer my question?—A. I don't think it is necessary.

Mr. CALLAHAN. All right, you are not an official photographer. And I am addressing you now, Mr. O'Connell; he is not an official photographer; he has no established business here in Boston and refuses to tell us for whom he works, if he works in Boston. I understand you want to put these in as records made by him?

Mr. O'CONNELL. Yes.

Mr. CALLAHAN. And you don't want to vouch for his reputation and business?

Mr. O'CONNELL. I simply want to introduce these photographs and you know they are photographs of 19 Causeway Street.

Q. How long have you lived in Boston?—A. About 35 years.

Q. Where do you live?—A. Medford.

Q. You don't vote in ward 5?

Mr. O'CONNELL. That is in keeping with the way people vote in ward 5.

Mr. CALLAHAN. Is that a reflection on your own witness?

Mr. O'CONNELL. Not at all.

Q. You live in Medford?—A. Yes.

Q. You are familiar with the west end, are you?—A. Quite a bit.

Q. What street did you say this house was on?—A. These photos here?

Q. Yes.—A. They are Causeway Street.

Q. How many times have you been on Causeway Street?—A. I can't tell you, Mr. Callahan. Hundreds of times.

Q. Hundreds of times?—A. I should say so.

Q. What day did you take those pictures?—A. I don't remember the date.

Q. Was it possibly a week?—A. It was recently.

Q. How recently?—A. Within two weeks, I should say.

Q. Did you take them to-day?—A. No, sir.

Q. Did you take them yesterday?—A. No, sir.

Q. When did you take them?—A. I don't know the exact date.

Q. Were you asked to come in and testify by any one?—A. Yes, sir.

Q. Did you print those pictures?—A. No, sir.

Q. When were you asked to come in and testify? This evening, weren't you?—A. I did not get the question.

Q. Weren't you asked to come in and testify this evening?—A. I was asked to come in this evening?

Q. Yes.—A. Yes.

Q. By telephone call?—A. No.

Q. Weren't you asked to come in this evening by some one connected with Mr. Tague?—A. No.

Q. Did Mr. Kane ask you to come in this evening and testify?—A. Not that I recall.

Mr. O'CONNELL. Why waste time over that?

Mr. CALLAHAN. This is no waste of time. You regard this as very important evidence.

Mr. O'CONNELL. The only important part is the correctness of these photographs.

Q. Did you take these photographs on a rainy day?—A. No.

Q. Was it a sunshiny day?—A. A sunshiny day.

Q. Was it in the evening?—A. If you are interested in photography, you will know it was not.

Q. What time of the day was it?—A. Forenoon.

Q. Did you go there alone?—A. I did, sir.

Q. Nobody showed you where the house was?—A. No, sir.

Q. Why did you take these different photographs?—A. To show it from different angles.

Q. Who asked you to do that?—A. Mr. Kane.

Q. Did he ask you to go upstairs?—A. Yes, sir.

Q. Did he ask you to take a picture of the inside?—A. I don't know, as he asked me.

Q. Who developed these pictures?—A. Is that necessary?

Q. Yes.—A. I don't think so.

Q. Did you develop them?—A. No.

Mr. O'CONNELL. Go ahead and tell him.

Q. Who developed these pictures?—A. A friend of mine.

Q. Who is your friend?

Notary BERMAN. If it is a lady, never mind.

The WITNESS. It is not a lady.

Mr. O'CONNELL. As a matter of fact, they were developed by the Boston Globe.

Notary BERMAN. Mr. Callahan, do not waste time on immaterial pictures. If you don't think they are correct, why don't you produce some of your own?

Mr. CALLAHAN. These are produced by Mr. O'Connell. Do I understand you rule I can not ask any more questions?

Notary BERMAN. I am trying to save time.

Q. So you refuse now to say who developed the pictures?—A. I think Mr. O'Connell sprung it.

Q. There is a picture [referring to Exhibit 61]—was that picture taken that day?—A. What day?

Q. The day you took the others?—A. All taken the same time.

Q. All taken the same time?—A. Yes.

Q. What is this house on this side?—A. This one here [pointing to a house on the right-hand side of the photograph]?

Q. Yes.—A. That is the dormitory.

Q. What is that house there?—A. That is the office, as I call it.

Q. That is another building or the same building?—A. No; the same building.

Q. And you went into the dormitory?—A. Yes.

Q. Is this a part of the dormitory?—A. No; it has nothing to do with the dormitory.

Q. What is that?—A. Pool room.

Q. You say there are 16 double beds?—A. Somewhere around there, 16 or 18.

Q. Sixteen double beds?—A. What I call double deckers, a lower berth and upper berth.

Q. You have no picture of the inside of this house?—A. No.

Q. Did Mr. Kane ask you to take a picture of the inside?—A. If I could get one.

Q. Anybody stop you from getting it?—A. Considerable, depending on the——

Q. Did you ask permission to get a picture of the inside?—A. No.

Q. You can not show us anything on any of these photographs that indicates this was either Causeway Street or No. 19 Causeway Street, can you?—You can not, can you, Mr. Witness?—A. No; I can not.

Mr. O'CONNELL. At this time, Mr. Notary, I want to notify counsel for Mr. Fitzgerald that when we are adjourned to-night I shall hope, at the end of the 40 days and shall ask to have this case reopened at a subsequent date and I so wish to notify you and notify counsel on the other side, because of the failure of so many witnesses to respond to the summonses issued for them to appear here before you to give testimony and when you are adjourning I wish you would bear that in mind.

Notary BERMAN. This hearing is adjourned until such time as Mr. O'Connell may want to reconvene or recall it.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

GERTRUDE S. COLE.

BOSTON, MASS., *May 5, 1919.*

Personally appeared above Gertrude S. Cole and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 53 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague, *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

BOSTON, MASS., *May 5, 1919.*

ABRAHAM C. BERMAN,

Notary Public.

Hearing held in room 443, Federal Building, Boston, Mass., April 22, 1919, at 10.30 a. m., before Abraham C. Berman, Esq. (presiding), and David Mancovitz, Esq., as notaries public.

Counsel: Joseph F. O'Connell, Esq., Arthur Harrington, Esq., and Frank Goodwin, Esq., for the contestant; John P. Feeney, Esq., Timothy F. Callahan, Esq., and Vincent Broгна, Esq., for the contestee.

Rebuttal:

Notary BERMAN. Mr. O'Connell, are you ready to proceed?

Mr. O'CONNELL. Yes. Mr. Mahoney, you take the stand, please.

WILLIAM E. MAHONEY, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your name?—A. William E. Mahoney.

Q. And you are a clerk to the election commission for the city of Boston?—A. Yes.

Q. And how many years have you been holding that position?—A. Fifteen.

Q. And at my request, did you bring certified lists of those who voted at the primary and election in Charlestown, ward 4, in 1918?—A. I did.

Q. Will you turn to that list and find out whether Patrick H. Goggin and Martin J. Turnbull voted?

Mr. O'CONNELL. I want to show at this time, Mr. Callahan, that neither Mr. Goggin nor Mr. Turnbull, concerning whom you put in testimony, voted at the congressional primary election of 1918.

Q. What do you find in reference to—A. Patrick F. Goggin.

Mr. HARRINGTON. The ward and precinct?—A. Ward 4, precinct 5, the check list used at the primary the name of Patrick F. Goggin is not checked.

Q. At what address is he?—A. No. 21 Monument Square.

Q. That means that he didn't vote?—A. Means his name is not checked.

Q. Not checked for what?—A. As having voted.

Q. If he had voted his name would be checked, Mr. Mahoney?

Mr. CALLAHAN. You don't have to answer that, Mr. Mahoney.

Q. Before you proceed on that—if Mr. Goggin had voted that day his name would be checked?

Mr. CALLAHAN. Wait.

Notary BERMAN. You may answer that question, Mr. Mahoney.

A. Why, yes.

Q. Go ahead with the next name.

Mr. CALLAHAN. That's a pretty broad answer. I am not disputing it at all; but don't you think Mr. Mahoney might answer that—A. Ward 4, precinct 7, check list used at the primary—Martin J. Turnbull, 47 Corey Street; name is not checked as having voted.

Q. And if he had voted his name would have been checked?—A. I think that's a fair presumption. Ward 4, precinct 5, check list used at the State election, the name of Patrick F. Goggin, 21 Monument Square, is not checked.

Q. Meaning that he didn't—A. Not checked as having voted. Ward 4, precinct 7, check list used at the State election, Martin J. Turnbull, 47 Corey Street, name not checked as having voted.

Q. That means that neither Turnbull nor Goggin voted at either the primary or State election of last year?—A. I think that's a fair presumption.

Mr. O'CONNELL. I will introduce also at this time a statement from the board that these men have not voted. That disposes of two of the three men.

Notary BERMAN. You offer those statements, and they are to be marked as an exhibit?

Mr. O'CONNELL. Yes.

Mr. HARRINGTON. Certified statements that they didn't vote.

Mr. O'CONNELL. I think that's all.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Mahoney, you made the statement in answer to Mr. O'Connell that, because their names weren't checked—or if their names had been checked they had voted. You say that for what reason?—A. Why, I say that for the reason—in the way the work is done by the election officers.

Q. And because of the accuracy and honesty of the election officers you make that answer; is that so?—A. Yes, sir.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. That applies to the election officers in Charlestown, Mr. Tague's ward, in the ward in which Mr. Tague lives, doesn't it?—A. I should say that applies all over Boston.

Mr. O'CONNELL. We were inquiring in particular to that ward. I shouldn't say so. It doesn't apply to ward 5.

Notary BERMAN. Those copies may be marked as exhibits.

Mr. CALLAHAN. We don't dispute it if Mr. Mahoney says so.

Mr. O'CONNELL. Those are always to be subject to the same general order as the other exhibits.

Notary BERMAN. To be sent for by the congressional committee.

Mr. HARRINGTON. And impounded by the court.

Notary BERMAN. Mr. Mahoney, the election commissioners are appointed the custodians of those papers, to be delivered to the congressional committee when they send for them.

Mr. O'CONNELL. That's all.

WILLIAM E. MAHONEY.

ARTHUR HARRINGTON sworn:

Direct examination by Mr. O'CONNELL:

Q. Your full name is?—A. Arthur Harrington.

Q. You are a member of the bar?—A. I am.

Q. You are a former Massachusetts Senator?—A. Yes, sir.

Q. And you were one of the attorneys representing Mr. Tague in the recount at city hall for the primary, were you not?—A. I was.

Q. Calling to your attention the testimony of Commissioners Finnegan and Wasserman concerning——

Mr. CALLAHAN. May I ask if Mr. Harrington has been sworn?

Notary BERMAN. Yes; he was sworn.

Q. Do you recall the incident concerning Mr. Finnegan wherein he said in substance, "I'm wrong, I'm glad I'm wrong, and I am going to stay wrong"? And if you do recall that, will you state exactly what did take place?—A. I recall it very clearly. There were discrepancies all through wards 5 and 6 in the primaries between the number of Democratic ballots cast and the number of ballots supplied, and the only way we had of finding out——

Mr. CALLAHAN. May I ask if this is rebuttal?

Mr. O'CONNELL. Yes.

Mr. CALLAHAN. I object. This is to be confined strictly to rebuttal.

Mr. O'CONNELL. It is.

Mr. CALLAHAN. I don't think it is very clear that it is in what Mr. Harrington is saying now. I suppose he can deny, and deny specifically anything introduced in our part of the case. If you want specific denial stated in rebuttal, that's all right; but I don't believe that Mr. Harrington, at this time, has the right to come in in rebuttal and give evidence that could have been deduced at the proper time when you put in your case. If he is there to deny specifically something that was deduced by our side, that's all right; if it is anything else I object to it.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. Harrington.

Mr. O'CONNELL. The right way for Mr. Callahan to do would be not to express his apprehension until after Mr. Harrington has told his story, and then he could state specifically to what he objected in rebuttal. Now, then, Mr. Harrington, if you will proceed now, and start from the beginning and tell your story.

Mr. CALLAHAN. Tell what story? I would like to have that question asked again, so we will know——

(Question read by stenographer.)

A. There were discrepancies in all the precincts of wards 5 and 6 between the number of Democratic ballots cast and the number of Democratic ballots supplied——

Mr. CALLAHAN. That I object to.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. Harrington.

A. And in order to check them, to see what was correct and what was incorrect, we requested from the board the right to examine the check lists in order to find out how many Democrats voted, and how many Republicans voted, and then check off the number of Democratic ballots actually used, and the number of Republican ballots actually used and the number of Democratic and Republican ballots actually supplied. Of course, if there was nothing wrong they would all check up, so we made that request, which was refused for either one or two days, as I remember, and then one afternoon, after lunch, Mr. Burlen said that the board—afterwards they told us——

Mr. CALLAHAN. Please note my objection to all this.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. Harrington.

A. They had consulted the corporation counsel, and they said we could look at the check list. The check lists of the precincts of ward 5 were brought out, the first one examined; Mr. O'Connell, you started to examine the different votes, and when you started Mr. Finnegan immediately interfered and placed a piece of paper entirely over the voter, his designation, and everything but the cross checked on the side, and when he did that you remonstrated, and I reached over, and I said, putting my hand on his arm, "You are wrong, Fred, because we are looking particularly for Democratic records." He said, "I'm wrong, I know I'm wrong, and I am going to stay wrong." As to the remark, "You are my judge," I heard no such conversation. At that time Mr. Flynn was on the other side of the table, on the side with me, and was not on Mr.

Finnegan's side of the table, and Mr. Flynn and I were side by side, reaching over to make an examination with you.

Q. Calling your attention to the testimony of Mr. Burlen, chairman of the election board, that he said before the ballot-law commission that he had received those lists of names of soldiers and sailors from the secretary of state, what do you say his testimony was at that time, when I asked him whether or not he didn't have notice of the fact that this country was at war?—

A. You asked him if he didn't have notice that this country was at war, and asked him what measures he had taken to protect the names of the soldiers and sailors from being voted on at that primary, and he said officially he had no notice there was a war.

Q. Did he state at that time, or at any time, down until he testified here at this hearing, a few days ago, that he ever received the list of names of soldiers and sailors that were furnished him by the secretary of state?—A. Never mentioned it at any time during the hearings, and the first time I ever heard it was when I heard him testify downstairs at this present hearing.

Q. Do you recall what Mr. Finnegan said when we tried to have the votes in ward 6 recounted, because—of precincts 1 and 2—because we didn't have anybody at the tables when they were recounted owing to the confusion?—A. Very clearly.

Q. Will you state just what it was?—A. Why, I discovered that the young man who was to have been at ward 6 was not there during the count of precincts 1 and 2, and also discovered they were not counting them correctly; and I so reported to you; and we both went to the board; the night before there had been an agreement to recount some other precinct upon condition we recount these precincts, too, and Mr. Burlen said such an agreement had been made and would be carried into effect. Mr. Finnegan became very angry, said he would not stand for it, that he would not countenance it, that he would take no part in the proceedings. He said that he would not sign the return if such a recount was made, and left the room. Mr. Burlen ordered the recount of those two precincts to be made, and there was a net gain of 7 or 9 votes more.

Q. Do you recall Mr. Finnegan's statement that he didn't care what the result was, nothing would affect—induce him to sign it?—A. This was after—I think—he said he didn't care what the change was; he wouldn't sign under any condition whatsoever; he wouldn't take part in the proceedings, and left the room.

Q. Calling your attention now, Mr. Harrington, to the notice that was sent to the board of election commissioners about illegal registration, and calling your further attention to the fact that the ballot-law commission hearings were still on, what do you say was the possibility for Mr. Tague or his counsel to proceed with any hearing on 15 minutes' notice before the election board?

Mr. CALLAHAN. There was no notice of 15 minutes' notice.

Mr. O'CONNELL. Wait a minute, please, Mr. Callahan; be nice.

Q. Go ahead.

Mr. CALLAHAN. May I object, please?

Notary BERMAN. Note Mr. Callahan's objection.

A. At the time the notice was sent we were preparing and getting other evidence to be presented at the next meeting of the board—

Q. What board?—A. Of the ballot-law commission; and it was absolutely impossible to get ready at this notice—to get ready short of three or four or five days' notice, at least, to bring it before the board. I would like to say further something I forgot to mention before: At that time, shortly after the hearings had closed at the ballot-law commission, I saw Mr. Burlen and, I think, Mr. Mahoney, and I asked them what they were going to do about the illegal registration hearing, and they said they had been busy, and they said when you are ready let us know, and I said that we were ready, and they said, "All right, we will let you know"; and we never heard anything further.

Q. The hearings before the ballot law commission were not terminated before October 29?—A. I don't remember, but it was the Tuesday before election.

Q. That left five days, exclusive of Sunday, before election day?—A. Yes, sir.

Q. And, of course, Mr. Tague had his campaign to make in those five days?—A. We were going very big.

Mr. CALLAHAN. Not big enough.

Mr. HARRINGTON. Big enough. The votes showed it. The votes showed it.

Mr. O'CONNELL. We got more votes that day, anyway.

Mr. HARRINGTON. Yes; exactly.

Mr. O'CONNELL. That's the truth. More people in the district voted for us than voted for them.

That's all.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Harrington, besides being attorney for Mr. Tague, you were one of his strongest supporters?—A. Yes, sir.

Q. And you were working actively for him before the primaries?—A. Yes, sir.

Q. And before the election?—A. I should say Friday before the primary—about 10 days before the primary I took a very active interest in the campaign.

Q. And besides you were active in politics in Charlestown?—A. Yes, sir.

Q. And you were active in Mr. Tague's own ward?—A. No, sir; my ward is ward 3.

Q. Ward 3?—A. The correct ward.

Q. Now, you acted as attorney, or you assisted Mr. O'Connell before election at the recount?—A. Yes, sir.

Q. Of the primary?—A. Yes, sir.

Q. And you appeared before the ballot law commission also?—A. Off and on, not regularly.

Q. And after that you were then active in Mr. Tague's campaign for election?—A. Yes, sir.

Q. And then you appeared as associate counsel before the election commission on the recount of election?—A. Yes, sir.

Q. And since that time you have been actively engaged as Mr. Tague's counsel?—A. Yes, sir.

Q. Now, you had been before the election commission a great many times on the question of illegal registration, hadn't you?—A. Never on illegal registration.

Q. You knew about hearings they had on cases of illegal registration?—A. I read three newspaper reports of three. I never attended any before the commission.

Q. As a matter of fact, you prepared this petition, didn't you?—A. No, sir.

Q. Were you ready at any time to appear before that commission?—A. Yes; provided that we had time to get our witnesses together. I might add we had the same evidence there as we have had in this case, ready to present to them.

Q. It is true your petition was filed on the 24th of October?—A. I think that's the date.

Q. And on the same date, Mr. O'Connell, or Mr. Tague, as shown by the evidence, was notified?

Mr. O'CONNELL. No.

Q. On the 25th?

Mr. O'CONNELL. No, no.

A. The petition was put in many days before the notice came for them to appear for the hearing.

Q. At any rate, on the 24th or 25th of October, you were notified, or Mr. O'Connell was notified, they were ready to hear Mr. Tague's side, that's so?—A. I was not present.

Q. You were present here.—A. The testimony here was Mr. O'Connell received 15 minutes' notice and received notice later in writing.

Q. Now, isn't it a fact that there were four or five days when there was no hearing before the ballot law commission? That is, four or five days before the day on which arguments were made?—A. I don't think, at any time, there was a recess of four or five days, sir.

Q. Was there a recess of three days?—A. One or two.

Q. Isn't it a fact you testified, and Mr. Tague testified here, and you know it to be a fact that they suspended their hearings for two or three days and then a great many witnesses appeared on that second or third day?—A. Two days, as I remember.

Q. An interval of two days?—A. That's my memory on it.

Q. Couldn't you have gone forward on any one of those days?—A. We couldn't go forward without the request of the board.

Q. But you had the request?—A. We had no request at that time, also during that time we were preparing ourselves, and we were getting all the evidence we could, and this evidence was coming in on the soldiers and sailors—was coming in all the time to us—and we had to go out and investigate it all the time, our time was all taken, so there was no chance.

Q. You knew, as an attorney, you knew as to election cases that you had to go before that board and at least make out a prima facie case?—A. On order of the board, with proper notice of it, which was never given.

Q. You, nor Mr. O'Connell, nor Mr. Tague never did go before the board and make out a prima facie case?—A. We didn't go because we were never requested to, only by that 15-minute notice.

Q. Did you go?—A. We didn't, we were never requested to, except that once. We were surprised as everybody else was that we didn't get it.

Q. That is disputed, of course. You were astonished, I suppose, that the judge of the court didn't let you go and prove your case?—A. That's a different case.

Q. Chief Justice Bolster—A. Chief Justice Bolster—we made our petition before him the same as before the election commission, and then Chief Justice Bolster said on account of the influenza he did not want a large gathering of people, and he would notify us later when that hearing would take place.

Q. And that hearing has not taken place?—A. No.

Q. And you have never gone to Chief Justice Bolster and taken it up with him, either?—A. I never did.

Mr. O'CONNELL. He forbade us to do it.

Mr. CALLAHAN. No; he didn't.

A. He said at that time nothing should be said about the matter.

Q. Please wait until I ask the question. Now, Mr. Harrington, you got something new in here, in this reference to Mr. Finigan you said Mr. Finigan said "I know I'm wrong," the—A. Yes, sir; as I remember it.

Q. The testimony, so far as the 80 days is, is "If I'm wrong I'll stay wrong"—A. He never said "If."

Q. He said, "I know I'm wrong?"—A. Exactly. He said it good and flat.

Q. Now, Mr. Flynn was there?—A. At my side, and not at his side as he so testified.

Q. And Mr. Flynn was a manager for Tague?—A. Yes, sir.

Q. Do you know Flynn?—A. Very well.

Q. Did he give Mr. Finigan any provocation?—A. None whatsoever.

Q. He was silent then?—A. He was at that time very well behaved.

Q. Now, as a matter of fact, Mr. Harrington, if Finigan said what you said he did, he did come back and certify all these records of the recount?—A. I don't know whether he did or not.

Q. But you do know he came back the next day and helped in the recount?—A. Oh, yes; but whether he certified or not I don't know.

Q. But after he made the statement of not taking any further part in the recount—A. He didn't say he would take no part in the recount, but in the recount of those precincts.

Q. But he did take part in the recount of the rest of the precincts?—A. Yes, sir.

Mr. CALLAHAN. That's all.

Mr. O'CONNELL. Just one more question.

Redirect examination by Mr. O'CONNELL:

Q. Recalling your attention to the testimony of Mr. Wasserman that he made, that he remembers having spoken to me on the street sometime after October 29, prior to election day on November 5, what do you say as to that? Do you know where I was during that week?—A. Yes, sir. That is, I know this—

Mr. CALLAHAN. He knows you told him.

A. I know you went away to Washington, and it would be impossible to talk to you, because I went over to your office a half a dozen times to see you and talk to you and you weren't back and didn't get back—

Mr. CALLAHAN. What time did you go to Washington?

Mr. O'CONNELL. Four or five days before election. I should say Thursday or Friday.

Mr. O'CONNELL. That's all.

ARTHUR HARRINGTON.

Mr. Taylor, the other witness to be examined, is detained with some important business and can not come until to-morrow, so his examination will have to go on to-morrow.

Notary BERMAN. Which Mr. Taylor is that?

Mr. O'CONNELL. Mr. William Taylor. I would ask that we take a recess until 2 o'clock.

Notary BERMAN. We will adjourn until 2 p. m
(Adjourned.)

AFTERNOON SESSION.

Hon. PETER F. TAGUE on the stand:

Direct examination by Mr. O'CONNELL:

Q. Mr. Tague, in order to clear up any misunderstanding as to your residence, you live at 21 Monument Square, Charlestown, is that right?—A. Yes, sir.

Q. And where do your mother and sister live?—A. No. 47 Corey Street.

Q. And that is some distance from your house?—A. Half a mile.

Q. And that is where Mr. Turnbull lives?—A. Yes.

Q. I call your attention to that part of Mr. Lomasney's testimony wherein he stated that, in substance, that if he would give you his support, you didn't care if you ever went back and that you would be satisfied with one term, and I ask you whether there was any such conversation as that ever had with Mr. Lomasney?

Mr. CALLAHAN. Now, may I ask, is that one term or two terms, to be accurate about it?

The WITNESS. It doesn't make any difference whether it was one term or two, there was no such conversation ever took place, no such agreement ever entered into.

Q. Any suggestion of that kind?—A. Never by anybody.

Q. I call your attention now to a part of Mr. Lomasney's testimony in which he refers to John I. Fitzgerald. Did you make any suggestions of John I. Fitzgerald running for the Senate, or did you speak of him, or did you sign any circulars for him, or did you authorize anybody to sign any circulars for him, as stated in Mr. Lomasney's testimony?—A. I never brought Mr. Fitzgerald's name in in any way, shape, or manner, never discussed his being a candidate for the Senate, never spoke of him, never signed any documents, and never authorized anybody to sign any documents for John I. Fitzgerald.

Q. Calling your attention further to Mr. Lomasney's testimony wherein he says you promised to interrupt President Wilson, when the President was making his address to Congress. I am going to ask you if you did make any such promises at any time to Mr. Lomasney?

Mr. CALLAHAN. I object, because that isn't a correct statement of what Mr. Lomasney said.

Notary BERMAN. Proceed, Mr. O'Connell. Note Mr. Callahan's objection.

A. I never made any such agreement, and never made any such statement, and wouldn't make any such statement to any man on a question of that kind, and no man knowing the conditions in Washington would ever think of making such a statement, or ask that such a thing be done.

Mr. CALLAHAN. I object.

Notary BERMAN. Note Mr. Callahan's objection.

Q. "If I had been in Congress I would have asked the President, when he was making the address, 'Mr. President, with all due respect to your exalted position, what is going to be the English attitude towards Ireland?'" Was there any such statement by Lomasney to you at any time?—A. Never.

Mr. CALLAHAN. Wait. That's what Mr. Lomasney said he would do.

Mr. O'CONNELL. Oh, yes; he said he would do these things. He agreed he would do it.

Q. Did you make any such promise as that?—A. No such agreement was ever made by me as that. There was no such question asked me by Mr. Lomasney. It is ridiculous.

Q. What do you mean that it is ridiculous?—A. It is ridiculous to think any man would get up and interrupt the President of the United States when he was making his address to Congress. No man has ever done it in the history of the country.

Q. Now, Mr. Tague, I call your attention to that part of Mr. Lomasney's testimony wherein, in substance, he says the late Postmaster Murray was bitter against you because of a charge you made of his having opened your mail, and I ask you whether you ever accused Mr. Murray of opening the mail belonging to you?—A. That is absolutely untrue also. Mr. Murray and I were always the closest personal friends and always had been since he was

a small boy, and I succeeded him in Congress. When the question came up of opening my mail it was brought up before a committee on expenditures and accounts in the Congress of the United States, I knew nothing about the investigation, but was summoned as my name was brought into it, and the first thing I said to that committee was that my mail has never been tampered with in Boston and that no man in Boston from the postmaster down would interfere with it in any way, shape, or manner. And Mr. Murrya's records will show it, and Mr. Murray publicly thanked me for that statement.

Q. Now, then, in Mr. Lomasney's testimony, were severely criticised——

Mr. CALLAHAN. Now, don't you think you better read the statement?

Mr. O'CONNELL. No; because there are brainstorms all through it for several pages.

Mr. CALLAHAN. We don't want characterization now.

Mr. O'CONNELL. Please let me ask the question.

Q. You heard Mr. Lomasney's testimony, which, in substance, accuses you of wrong-doing in connection with the pneumatic-tube service and your vote on that question, what do you say about that?—A. There was never anything wrong, so far as I was concerned with the pneumatic tubes in any way, shape, or manner. The pneumatic tubes are a branch of the mail service carried on in six leading cities of the country. The Postmaster General wanted to do away with it, and I acted as a representative of this city, and representative, in fact, of all the New England cities, without a single dissenting vote, every civil organization in the city, with the mayor in sending down his representative to appear before the committee of Congress, the chambers of commerce, the boards of trade, every organization doing business in Boston that could send a representative, not only to Washington, but to the Chamber of Commerce, every city in the country where tubes were was represented at this hearing and no individual had anything to do more than another, everyone was with pneumatic tubes representing these cities in Congress.

Q. Had your predecessor, Mr. Murray, taken this stand?—A. Mr. Murray was one of the strongest advocates.

Q. Of what?—A. Of pneumatic tubes while he was in Congress, and the only reason that he changed was because Mr. Burleson issued orders.

Q. This was after he left Congress?—A. After he left Congress and was the Boston postmaster.

Q. Did you have any talk with Mr. Lomasney concerning Mr. Murray and Mr. Murray's position in reference to the congressional nomination of last year?—A. Yes.

Q. Will you state the conversations you had in the order in which you had them?—A. I called in to see Mr. Lomasney about him supporting me for Congress, and he said Mr. Murray had been down and was very much opposed to me, and Murray wanted him, Lomasney, to be a candidate. Lomasney then said to me, "I know what Murray is driving for." And I will say frankly I hate to bring Murray's name in here just now, but it was brought in, and I can't help it. Mr. Lomasney said, "I know what Murray is driving for; Murray wants to go back to Congress; Murray asking me to be a candidate," meaning Lomasney, "isn't anything he means. It isn't from the heart; it is from the lips; it is the chatter of a man who wants to say something to compliment me."

Q. Had you had any conversation with him prior to that concerning Mr. Murray, and Mr. Murray's position?—A. Yes; previous to that there was a taking for the North Station post office. The Post Office Department decided to take the property on Nashua Street. Mr. Lomasney had property on the corner of Causeway and Lancaster——

Mr. CALLAHAN. Will you note my objection to this?

Notary BERMAN. Note Mr. Callahan's objection.

A. Mr. Lomasney had that property and he thought the post office should have gone over there. He criticised me because the post office was put in my district, and put down there without my notifying him that it was going in there. I investigated to see where the post office was going, and I went in to see Mr. Lomasney a day or two later and showed him I had nothing to do with the post office, and nothing to do with the placing of the post office, and showed him where Mr. Murray had sent the present acting postmaster, Mr. Hurley, down to Nashua Street with Mr. Clark, of Brooklyn, N. Y. He was the builder and bought in all the property and built the post office. And I showed him I had nothing to do with it, and when he found that Murray was the man who had done it, he became enraged and says, "That's what you get for treating these fellows the way I treated Murray. If he had let me be the real estate

broker in this case I could have cleaned up \$25,000; instead of that they have taken the Nashua Street property and every piece of property up to the property I own and they have left my property outside."

Mr. CALLAHAN. Note my objection to that.

Notary BERMAN. Yes, sir.

Q. What else did he say?—A. Mr. Murray would never hold public office in Boston again as long as he lived if he could help it.

Q. Did he refer to that at a certain interview when Mr. Murray called on him in relation to the congressional candidacy?—A. Yes. He said he knew how Murray felt. "Mr. Murray done me an injustice when he took the post office and built it the way he had, and I never forgave him, and he can't come down here and make me believe he wants me to go to Congress, and cover himself up."

Mr. CALLAHAN. Note my objection to that answer, please.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. O'Connell.

Q. The intimation is made by Mr. Lomasney that because your campaign committee had taken some contributions from some gentlemen that there was something wrong in it on your part. Referring particularly to that part of his testimony where he referred to the report of your campaign committee which was filed by Mr. Heedy, showing the receipts of money and expenditures of the same, did you ever take any money from any corporations?—A. Never.

Q. What do you say about your campaign committee having received contributions?—A. My campaign committee received money and filed a report of it in accordance with the law, filed it so that people could know who gave the money. It was in a former mayoralty campaign and had absolutely nothing to do with the congressional contest; and if I had been fortunate enough to have been elected mayor of the city, I would have resigned my position and never gone back to Congress. It was filed squarely within the law, and if there was anything wrong, it never would have been filed the way it was, so all the people could know it.

Q. At that time was there any legislation pending in Congress concerning pneumatic tubes?—A. No. Congress was not in session.

Q. Was any legislation pending at that time?—A. No; the pneumatic legislation had been passed in July.

Q. Mr. Lomasney in his testimony states that you did nothing for—stated that the Jewish people were finding a lot of fault with the way you treated them and there was some kicking among the Italian people. What do you say about that, Mr. Tague?—A. I never heard anybody in this district object to me since I have been in Congress—object to me or anything I have done. I never slighted anyone, and have never been criticised by anybody, and so far as doing favors for the Jews and Italians he emphasized very clearly that he wanted all favors done through his office.

Q. I call your attention to that part of Mr. Lomasney's testimony in which he states his reason for being before the Ballot Law Commission and bringing in the voters. Will you tell us what the real situation was before the Ballot Law Commission that brought about a situation that Mr. Lomasney produced those witnesses the he did produce?

Mr. CALLAHAN. I object to that. Mr. Tague's direct examination went in thoroughly to that situation.

Notary BERMAN. Note Mr. Callahan's objection.

A. While the hearing was on before the Ballot Law Commission we were unable to get the witnesses to come in and Mr. Lomasney was there at every hearing, evidently running the hearing—

Mr. CALLAHAN. That I object to.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. Tague.

A. It was rumored around the corridors that some of the witnesses weren't going to come in. Mr. Cunningham made the statement that he wanted the witnesses to come in, and unless they did come in they would have to use other means of getting them in than they had. We were then told that when the witnesses were to come in they were to be only asked questions by the chairman of the commission, and, in other words, they were to be protected from any interference by you, as my attorney. In the few days following Mr. Lomasney led up a troupe of witnesses, many of whom have been summoned here, and I notice they have not come in—

Mr. CALLAHAN. I object.

Notary BERMAN. Note Mr. Callahan's objection. Proceed Mr. Tague.

A. When they came into the hearing, Mr. Cunningham announced he would do the questioning, you would not be permitted to question the witnesses, Mr. Lomasney was the authorized attorney for these men. There were two or three simple questions asked of each witness, and they were to be allowed to depart and not interfered with.

Q. Something has been said in reference to the voting in wards 5 and 6. I will ask you, in order that the committee may be informed of the exact situation prevailing in ward 5, to compare, if you will, the votes cast for you on one of the boundary lines; take, for instance, precincts 10 and 11 of ward 5, which adjoin and bound on precincts 1 and 2 of ward 6. Will you be good enough to do that, Mr. Tague.

Mr. CALLAHAN. I object.

Notary BERMAN. Note Mr. Callahan's objection.

Mr. CALLAHAN. This is not rebuttal; this is evidence. That comes to direct examination.

Notary BERMAN. Proceed, Mr. Tague.

A. It is a fact that in precincts 10 and 11, of ward 5, the vote cast in that ward I was defeated by a vote of about 3 to 1, while directly across a 30-foot street, in precinct 1, of ward 6, in the same locality, the same kind of people, I carried that precinct, and in the precinct adjoining I was defeated by 30 votes, which sowed conclusively that colonization was going on in ward 5 in precincts 10 and 11.

Q. In the first part of your answer you said "ward 6", you meant "ward 5"?—A. In precincts 10 and 11, of ward 5, and precincts 1 and 2, of ward 6. At least I was defeated by a few votes in precinct 2.

Q. In Lomasney's testimony he picked out the Doors Hotel, on Pine Street, showing that there was a very large number of men, 300 in all, assessed at that house, but only 10 registered. What do you say as to the character of the Doors Hotel?—A. The Doors Hotel is a hotel run by some philanthropic people here in the city, run for the express purpose of taking care of men without homes. Mr. Lomasney and no other man engaged in public life has ever been permitted in any way, shape, or manner to interfere with the people of that hotel or the voters of that hotel.

Q. In what part of ward 5 is the Doors Hotel?—A. It is in what is called the South End of the city.

Q. And that is in the part of the ward that was formerly ward 7?—A. Old ward 7.

Q. And was brought into ward 5 last year?—A. The last two years.

Q. And part of the ward that Mr. Lomasney had nothing to do with, outside of one lieutenant, Mr. Donovan, who had been a chairman for that end of the ward?—A. Yes.

Q. Now, compare the work in this charitable institution, this philanthropic institution, where men of high character run it, with such houses at 19 Causeway Street and the Hotel Lucerne, down in Mr. Lomasney's part of the ward?

Mr. CALLAHAN. I object.

Notary BERMAN. Note Mr. Callahan's objection. You may answer, Mr. Tague.

A. In the Doors Hotel, 300 are assessed and only 10 registered; at 19 Causeway Street, 30 are registered and about all voting.

Q. Thirty assessed?—A. Thirty-two assessed, I believe, and 30 registering and voting.

Mr. CALLAHAN. I object. I suppose you can show that by the records.

Mr. O'CONNELL. We have already gone into these facts in other parts of the testimony. In order to save time I am referring back to them for the purpose of learning the situation in connection with them.

Q. The precincts where colonization goes on are precincts 4, 8, and 9, of ward 5, are they, particularly?—A. Yes.

Q. Although I presume it is more or less general throughout the ward?—A. Throughout the ward.

Q. Now, take up, if you will, the registration in the various hotels of bona fide standing in the district?—A. In the Touraine—

Mr. CALLAHAN. Please note my objection to this evidence. This is not rebuttal.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. O'Connell.

Mr. O'CONNELL. Mr. Lomasney, in direct testimony, devoted three pages to the fact there was no colonization.

A. In the Hotel Touraine there were 4 registered.

Q. The Hotel Touraine is one of the famous hotels of the world, is it not?—

A. Yes, sir.

Q. Is that in the heart of this ward?—A. Right in the middle of the ward. The Adams House has got 3 registered.

Q. What is its standing?—A. A high-class hotel, on Washington Street, in the center of the ward.

Q. Also a large hotel?—A. Yes, sir. The American House, one of the oldest up-to-date houses, 6; Young's Hotel, 6.

Q. Young's Hotel is one of the famous hotels of the country?—A. Yes, and 2 were illegal voters, as we have proved. Clark's Hotel, 2; Parker House, 9; the Elks' Home, which is bachelors' quarters, has 2. Now, against that, the Revere House has 56. That is down in the west end of the city.

Notary BERMAN. All the previous hotels were high-grade hotels?

The WITNESS. Yes, sir.

Q. Right now, the Revere House has been declared by the Massachusetts Supreme Court a nuisance, hasn't it?—A. Yes, sir.

Mr. CALLAHAN. I object.

Notary BERMAN. Note Mr. Callahan's objection.

Mr. O'CONNELL. I will introduce the Massachusetts Supreme Court report.

Q. And this is the house that Mr. Lomasney referred to in his testimony as a fine, old, respectable house?—A. Yes; he made a speech on that. The Quincy House, 39; Hotel Napoli, 11; the Rexford, 10; the Commonwealth has 15; the Hotel Windsor, 9; the Bowdoin, 21; Hotel Lucerne, 53; Merrill House, 28; Ketterer's, 10; Central House, 17.

Q. Now, then, of course, these are all houses of no note, and some of them, as has already been testified to, are disreputable places. There is all this large registration against respectable houses like the Touraine, Adams House, Clark's, and Young's, having a very small registration.

Mr. CALLAHAN. No, no. Note my objection to that.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. O'Connell.

A. And 19 Causeway Street had 30.

Q. By the way, what is 19 Causeway Street, familiarly known throughout this city? [Witness hesitates.]

Q. Go ahead.—A. The louse house. There is the Crawford House, with 14; Hotel Royal, 14; Bellevue, 16; 54 Howard Street, 12—none have ever been able to be found; 30 Causeway Street, 15; then there are eight houses, four in North Anderson, 19; four in North Grove, 15; 24 Chambers, 15.

Q. What type are these places?—A. These are supposed to be lodging houses down there in the West End.

Q. What are they? I am asking if you know?—A. The same type of houses that we have just been talking about; they are cheap lodging houses.

Q. Large or small?—A. Small. 14 Chambers Street, 8; 76 Green, 14; 40 Lynde, 14; eight houses, 106 registered votes.

Q. I am going to ask you as to what you say, Mr. Tague, as to Mr. Lomasney's testimony that there was no colonization in that part of the city?—A. Why, in that—

Mr. CALLAHAN. I object.

A. Part of the city—

Notary BERMAN. Note Mr. Callahan's objection.

A. There were 500 names of men who didn't live in that section of the city at all, many don't live in the city.

Q. Now, Mr. Lomansey in his testimony stated that you had some differences in reference to the war, and intimated that it was concerning your failure to vote against war, and for that reason he would not support you, will you state when was the first—were there other differences between you concerning your attitude concerning the war, and if so, relate any particular instance. I call your particular attention to the *Kronprinzessin Cecilie*.—A. Some time in March, I think about the 1st of March, United States Marshal Mitchell seized the *Kronprinzessin Cecilie* in East Boston and took the crew off the ship and put his own men in charge of it. On the Sunday following his seizure, I got a telephone call from Mr. Lomansey to come over and meet him in his office, and I went over and when I got over in his office he introduced me to the chief engineer of the *Kronprinzessin Cecilie*, I think he was called Werps, he complained very bitterly that these men, the crew of this ship, the *Kron Prinz*, had been treated very shabbily by Mr. Mitchell and that he had overstepped his

rights in taking the ship over, that he had gone down in the middle of the night and taken him off and his men off in a severe storm, taken them away from the ship and had not allowed them to get their baggage.

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. Tague.

A. He felt Mr. Mitchell was not within his rights and wanted me to protest to Washington against the treatment these men were receiving, and I told him I would call up Mr. Mitchell, and I did from his office, I called up Mr. Mitchell on the telephone, Mr. Mitchell was then aboard the ship, and I asked him to tell me what the circumstances were, and he said—

Mr. CALLAHAN. Note my objection to this conversation between Mr. Mitchell and Congressman Tague.

Notary BERMAN. Note Mr. Callahan's objection. Proceed Mr. Tague.

A. He said that he was acting within his rights as a representative of the Government and the representative of the people who had the lien on the ship. He seized the ship on Saturday night, having received an intimation that these men were going to destroy the ship in case of a declaration of war, that he went aboard the ship, but first before going aboard the ship he provided quarters for the crew and the men of the ship in the immigrant station and the officers in the hotels, and that he went there in an orderly way and took them from the ship, and transferred them to the different hotels and the immigrant station. He was willing, he said, at any time to give these men all their belongings, and that they could have them upon request, and I told that to Mr. Lomasney and this chief engineer up here in his office.

Q. What else did Mr. Mitchell tell you as to why he wouldn't let these men on?

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection. Proceed Mr. Tague.

A. Mr. Mitchell said he would not permit this man or any other man that was a member of the crew to go aboard that ship, because he knew they intended to destroy it, that they found wires put there for the purpose of destroying the ship, that the cylinder heads had been reversed, valves were taken out and put in the wrong place, and if an attempt had been made to start the ship under its own steam she would have blown right up in the dock.

Q. Did you tell Mr. Lomasney?—A. I told Mr. Lomasney the whole thing right through and then he insisted I take it up with Washington.

Q. Was anything more said?—A. I told him I would not do it, as Mr. Mitchell had acted within his rights, and he should do as he had done.

Mr. CALLAHAN. Note my objection to that whole answer, please.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. O'Connell.

Q. Now, was there anything said by Mr. Lomasney in connection with this *Kronprinzessin Cecille* story?

Mr. CALLAHAN. I object to that.

Notary BERMAN. Note Mr. Callahan's objection. You may answer, Mr. Tague.

A. He said it was an outrage the way these men were being treated, and that we were not in the presence of war and they had some rights that ought to be protected, and that Mr. Mitchell had overstepped his rights in going there and remaining there on the ship.

Q. Now, I call your attention, Mr. Tague, to that part of Mr. Lomasney's testimony in which he brought forth a paper, distorting it into a meaning to suit his own purpose. I am going to ask you to tell us the conversation you had with Mr. Lomasney concerning the contract for the building of the storehouse over in South Boston, familiarly known as the Kearns contract, being the 20,000,000 contract—

Mr. CALLAHAN. Wait just a minute. I want to object to this, because Mr. Lomasney made no reference to the contract of South Boston. When you say a paper, if you mean a paper Mr. Lomasney introduced as evidence, I am perfectly willing Mr. Tague should explain it.

Mr. O'CONNELL. That's just what I am asking about.

Q. Go ahead.—A. When it became known there was going to be a storage warehouse in South Boston, and there were rumors that Mr. Kearns was going to get the contract—

Mr. CALLAHAN. I object to that, because it is not in reference to anything that was brought out in our case.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. Tague.

A. I went to see Mr. Lomasney, as I did very often, and he was very much incensed to think that that big contract was coming to Boston and the ex-

penditure of all those millions of dollars, and he was not considered in on that contract. He said that he was maintaining a big organization and that the way to run an organization was by getting money to run it, and the way to get it was by contracts, and I wasn't doing my share in bringing contracts over to him and that section of the city. He was opposed to Mr. Kearns having the contract he said, first, because he thought Curley had something to do with it. Then he wanted to go down and oppose the granting of the contract to Kearns. I went down a day or two after, and went to see the Secretary of War and find out who had the contract. Mr. Crowell, then acting as Secretary of War, told me the contract was not then awarded, that there were two of three contracting concerns after it, but Mr. Kearns was the one that was the most satisfactory so far, and then I called up Mr. Lomasney on the telephone and told him what had happened, that I had talked with Mr. Crowell, and Mr. Crowell said the contracts were not yet settled. He asked me then to oppose Kearns getting the contract on the ground that Curley was interested and Gallivan was interested and he was not being considered in it at all. I then sent him word that the contracts were going to be settled very shortly, and that if he wanted anything done he would have to get busy. Mr. Lomasney then sent me a telegram.

Q. During the conversation did he say he would do anything further about sending anybody else down to Washington?—A. Yes.

Q. What did he say?—A. Mr. Lomasney told me to do what I could and he would send the mayor and others down there to help to get the contract for somebody.

Q. Did he say who, that he would advise you whom he sent down?—A. He told me he would send the mayor and advise me just when the mayor was coming down there.

Q. What did he say he would ask the mayor and what did he want you to do? Mr. CALLAHAN. I object.

Notary BERMAN. Note Mr. Callahan's objection.

A. He said to me, "You go down and do what you can, and I will see the mayor and see that he goes down to Washington and opposes these contracts and he will bring somebody else with him to help him."

Q. Did he say how he would advise you?—A. He would telegraph me under the name of "Jones," when the mayor was going to leave the city and when he would probably arrive in Washington.

Q. Did you receive any such telegram?—A. I did.

Q. Is that the telegram [showing witness telegram]?—A. Yes, sir. It is signed "Hones," but it is intended for "Jones."

Mr. CALLAHAN. I would like to object to that, for two reasons, first of all it can't be properly authenticated, and secondly, it is not any rebuttal of any evidence we put in the case.

Notary BERMAN. Note Mr. Callahan's objection.

(Telegram examined by counsel).

Mr. CALLAHAN. I object to this.

Mr. O'CONNELL (reading):

"BOSTON, MASS., March 5, 1918.

HON. PETER F. TAGUE, *Hotel Driscoll, Washington, D. C.*

Telegram received. Do all you can to beat the man you are opposing. It is important to have Nawn win. Many of our best friends are working for him. It is your best play to assist him. Be with anybody to lick the other fellow.

"GEORGE JONES."

(This telegram marked "Exhibit 120.")

Q. Was that the name signed to the telegram that Mr. Lomasney told you you would receive a telegram under?—A. Yes, sir.

Q. The Nawn referred to is Mr. Nawn, a big contractor in Boston?—A. Harry Nawn.

Q. "To lick the other fellow" on that contract means whom?—A. Lick Kearns.

Mr. O'CONNELL (reading):

"BOSTON, MASS., March 9, 1918.

HON. PETER F. TAGUE, *Hotel Driscoll, Washington, D. C.*

The mayor is leaving on the seven-thirty train this evening and will be over to-morrow morning. Mack will be over Monday morning. Work hard and fast."

"BONES (or HONES)."

Q. Is that the same?—A. The same man.

Q. These two telegrams were from Mr. Martin M. Lomasney?—A. They were.

Q. And were in accordance with his arrangement made with you that he would send a telegram signed with one of those signatures?

Mr. CALLAHAN. I object to that.

Notary BERMAN. Note Mr. Callahan's objection.

Q. Now, then, did the mayor of Boston appear in Washington on the following day?—A. He did.

Q. And did he go to the Secretary of War to prevent Kearns from getting the contract?—A. He did.

Q. Who is "Mack" referred to in this telegram?—A. McFarland of the Boston American.

Q. Political friend of Lomasney's?—A. Yes, sir.

Q. Political writer for Mr. Hearst?—A. Yes, sir.

Q. He showed up with the mayor?—A. Yes, sir; the next day.

Q. Did he try to stop the contracts from being given to Mr. Kearns?—A. He did.

Q. When you came home, shortly after that, did you have a talk with Mr. Lomasney in reference to these contracts?—A. I did.

Q. What did he say?

Mr. CALLAHAN. I object to this. This is not rebuttal.

Notary BERMAN. Note Mr. Callahan's objection. You may answer, Mr. Tague.

A. Mr. Lomasney—he was still very much incensed because the contracts had not come the way he wanted them to. I told him if he would furnish me with the names of legitimate contractors that would be acceptable to the Government I would go down to Washington and try and get the contracts. Previous to that I had told him I didn't want to get mixed up in the contract game. He told me he was surprised that I didn't bring the contracts home to the district, and I said, "If you will get me the names of the contractors, I will see what I can do." And he said, "You bring the contracts and I will get the right names and I will get the men to do the work," and I said I couldn't do it that way. He said there was a man named Root, who was a reputable business man, and he thought he could do the work, and as long as I was going to Washington that night he would send me down the names of the concerns. I went to Washington and didn't get the names of the concerns. I wrote him I had been to see Gen. Marshall, who had charge of all the building of the cantonments, and Mr. Starrett, and they said they would give me the work if I could give them the names of legitimate contractors and would be glad to give me the work. I then wrote to Mr. Lomasney the letter he made such a sensation about.

Q. What do you mean by that, that you landed the contracts in the district?—A. I wanted to bring them home to the people.

Q. Did you expect to get in on them personally?—A. Never, never.

Q. Did you expect to, or hope to?—A. Never.

Q. What else did he say as to the Kearns contract and what it meant here in Boston?

Mr. CALLAHAN. I object. Note my objection to that.

Notary BERMAN. Note Mr. Callahan's objection. You may answer, Mr. Tague.

A. He said the Kearns contract was a direct slap in the face to him and the others; that the men who were getting the contract, Kearns—that his brother had caused him to be put out of the schoolhouse commission, that Curley was in on the contract, and that the contract was in the hands of John Feeney, and he said that John Feeney would blackjack everybody who had anything to do with the contract—

Mr. CALLAHAN. Note my objection to that answer.

Notary BERMAN. Note Mr. Callahan's objection. Proceed, Mr. Tague.

A. That he was a jury-fixing lawyer and he would do anything to get the money.

Q. Who is Mr. Feeney?—A. John P. Feeney, an attorney, one of Mr. Fitzgerald's associate attorneys.

Q. In this case?—A. In this case.

Q. What else did he say about it?

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection.

Q. Now, Mr. Lomasney stated in part of his testimony—there was some statement—what other talks did you have with Mr. Lomasney about getting contracts for his friends?—A. Why, John I. Fitzgerald wanted contracts.

Mr. CALLAHAN. Note my objection to that.

Notary BERMAN. Note Mr. Callahan's objection. You may answer, Mr. Tague.

A. John I. Fitzgerald wrote in to Washington and wanted me to get clothing contracts; said he had a man down in the west end that wanted to make clothing. Mr. Mancovitz wanted contracts for the building iron work.

Q. Mr. Manovitz is the notary sitting in for Fitzgerald in this case?—A. Yes, sir.

Q. And John I. Fitzgerald is the character that has been around here making trouble and causing a disturbance from the very beginning?—A. He is.

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection.

Q. In other words, Mr. Lomacy was after you all the time to get contracts for himself or his closest friends, Senator John I. Fitzgerald, or Mr. Mancovitz, the man that is sitting here as notary?—A. Yes, sir.

Q. What about the housing contracts for Mr. John C. Kiley—did he ask you concerning them?—A. Mr. Kiley was down there looking after the housing contracts.

Q. You were told by Mr. Lomasney to help him out?—A. I was.

Q. Who is Mr. John C. Kiley?—A. Mr. Lomasney's partner in the Beatty Construction Co.

Q. And when Mr. Fitzgerald was mayor of Boston, wasn't Mr. Kiley real estate expert for the city of Boston?—A. He was.

Mr. CALLAHAN. I object to that.

Notary BERMAN. Note Mr. Callahan's objection.

Q. And through him a great number of land deals were put through between Lomasney and Fitzgerald; is that true?—A. There were.

Q. And is Mr. John C. Kiley the man that asked you in Washington to help get him get the housing contracts?—A. Yes; for the sale of land.

Q. For the sale of land. And he failed to get them, did he?—A. He did.

Mr. CALLAHAN. Note our objection.

Notary BERMAN. Note Mr. Callahan's objection.

Q. The housing that Mr. Kiley was interested in was in connection with land in Quincy where the Fore River Shipbuilding Co. is located?—A. Yes, sir.

Q. In which company Mr. Joseph P. Kennedy, the son-in-law of John F. Fitzgerald, was engaged?—A. Yes, sir.

Q. And interested?—A. Yes, sir.

Q. So it was a combination between Lomasney and Fitzgerald and the Fore River Shipbuilding Co on the housing proposition, and it was your failure to get favors for them that brought about this feeling on the part of Lomasney against you?—A. Yes.

Q. They also wanted—Mr. Lomasney or Mr. Fitzgerald, or either of them, were interested in the sale of land over in Charlestown for the enlargement of the navy yard?—A. Very much interested in having the navy yard enlarged. Mr. James Fitzgerald, brother of John F. Fitzgerald, wrote me several letters. I published one in the newspapers, asking me to get an appropriation for the enlargement of the navy yard, so the land they owned would be taken.

Q. You didn't do that?—A. I did not.

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection. Why not make one general objection, Mr. Callahan, rather than keep interrupting?

Mr. CALLAHAN. No, no.

Q. Among those who promised to support you, and were active in your support, in your campaign, was Robert Silverman one of them?—A. In ward 6, yes.

Q. How long did Mr. Silverman continue to support you?—A. He supported me in the beginning of the campaign, and all of a sudden he dropped off, and later I found out he was promised a position in the law department of the city of Boston.

Notary BERMAN. Just a moment. Are you referring to the young man in the law department?

The WITNESS. Yes.

Notary BERMAN. His name is Samuel, not Robert.

Q. Is that the one you refer to?—A. Yes.

Q. Then you found out that Mr. Silverman had got an appointment from Mayor Peters to go into the law department?—A. Yes.

Q. Do you recall a man by the name of Shaw, David B.?—A. Yes.

Q. And what was given to him in return for his support against you?—A. Mr. Shaw, for a great many years owned a piece of property over on Medford, off Medford Street, called Jennings Place. They were old houses that had been knocked to pieces by the boys; been put on the market by the Cooperative Bank for \$1,200. That property was on the market for a long time. Mayor Fitzgerald refused to take it, Mayor Curley refused to unload it on the city, but Mr. Shaw succeeded in unloading it on the city this time for the extension of a playground in a school that was reduced in numbers more than any school in the Charlestown district.

Q. For what price?—A. A price beyond the assessed value, which I believe was \$3,100, and anyone could have bought it for \$1,200.

Mr. CALLAHAN. Not my objection.

Notary BERMAN. Note Mr. Callahan's objection.

Q. And Mr. Shaw, of course, lives in Charlestown?—A. Yes, sir.

Q. Very close up to where you live?—A. Yes.

Q. Now, I call your attention, Mr. Tague, to the situation that existed here in this room on the day on which Mr. Lomasney first gave his testimony, will you describe how the room was?

Mr. CALLAHAN. That I object to.

Notary BERMAN. Note Mr. Callahan's objection.

You may answer, Mr. Tague.

A. The room was packed.

Q. And among those who were present——A. The glass in that window of the door [indicating] was broken, and that rail [indicating] was broken.

Q. Among those who were present that day, were there any who had been summoned by you and who failed to appear, and if there were will you please give their names, and if they are associated with Mr. Lomasney in any way please describe the association.—A. John Beatty, said to be proprietor of a construction company, was summoned by us and didn't show up; Bernard Grant, a contractor, who is interested in a construction company; Henry Gray, Jed McCarthy——

Q. Who is he?—A. Court officer, who were summoned here, I believe came the next day; Mr. McNulty came in here, Pat McNulty.

Q. All these men were summoned to come in and give testimony whilst you were putting in the case?—A. Yes; all prominent members of the Hendricks Club.

Q. Was John C. Kiley here?—A. He was.

Q. Why had you summoned in these men?—A. Because they were illegal voters,

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection.

Q. And since that day, when I called attention to the fact that these men were here, now, have any of them shown up?—A. I haven't seen any.

Q. Now, I direct your attention to the filing of the list of illegal voters whom were complained to the election commissioners of the city of Boston. Did you, at any time, hear directly from the election commissioners in any way stating that they would give you a hearing?—A. They never notified me at any time; never notified me directly at any time that they would give me a hearing.

Q. After the hearing that was going on before the ballot law commission was finished did you call on them?—A. I think on Wednesday, the day after the hearing closed, or whatever day it was, the day after the hearing closed, I went down to the election commissioners, I met Mr. Burlen, and I said, I think, now—we were waiting for a decision—I wanted to know when the hearing was going to take place on illegal voting, and Mr. Burlen told me it was pretty late, in fact, it was too late; they were getting the ballots ready, and he didn't think the board would give me a hearing, and we never did have a hearing.

Q. Were you ready and willing to go forward?—A. I was ready then and I'm ready now.

Q. Now, since that time have they ever made any effort to go into this question?—A. Never.

Q. Have they ever called upon you for any of the evidence?—A. Never.

Q. Have they ever called on any of the stenographers for any evidence such as has been given here before this hearing in the last 80 days?—A. So far as I know, never.

Q. It was all available to them?—A. Yes.

Q. You would be only too glad to furnish them with all the evidence you could?—A. I would.

Q. You had stricken off the names of soldiers and sailors furnished the ballot law commission by the city of Boston? Is that the list [showing witness list]?—A. Yes; it is.

Q. Of voters in the——A. Tenth congressional district.

Mr. O'CONNELL. I offer this list.

Mr. CALLAHAN. I object to it.

Mr. O'CONNELL (to stenographer). Mark those, please.

Notary BERMAN. Note Mr. Callahan's objection.

Mr. O'CONNELL. I offer this for the purpose of showing the list who were summoned that the secretary of state furnished the election board of the city of Boston with a detailed list of those who were called into the Army and Navy and marine service of this country, which gave them ample opportunity to protect the voting list from being wrongfully used by those who would vote on the names of men who had been called into the service for war purposes.

Mr. CALLAHAN. Now, will you note our objection, because it is not rebuttal of evidence brought out by the contestee in this case.

Notary BERMAN. Note Mr. Callahan's objection.

Mr. O'CONNELL. It rebuts Burlen's testimony.

Mr. CALLAHAN. No; it doesn't either.

Mr. O'CONNELL. I beg your pardon.

(List of named marked "Exhibit 121.")

Mr. O'CONNELL. I now offer these stickers, the other stickers which we did not put in at the time of Exhibit 10, which we said we would. I now ask that they simply be marked.

Mr. CALLAHAN. Note our objection to this.

Mr. O'CONNELL. This is clearly in accordance—here is Exhibit 10 [indicating], and in carrying out the understanding which we had at that time, I will introduce the other stickers, which Mr. Tague testified to at that time, and they will be marked.

Mr. CALLAHAN. Note our objection.

Notary BERMAN. Note Mr. Callahan's objection.

(Stickers marked "Exhibit 10, 10a to 10e," inc.)

Notary BERMAN. Did you put in the genuine sticker?

Mr. O'CONNELL. I will introduce——

Notary BERMAN. Introduce one genuine sticker.

Mr. O'CONNELL. Better introduce a few of those.

Mr. CALLAHAN. Might as well put them all in.

Notary BERMAN. Just put in one or two.

Mr. O'CONNELL (to stenographer). Mark those.

(Stickers marked "Exhibit 10 to 10j," inc.)

Mr. O'CONNELL. I think that's all in connection with that. Oh, yes; I will introduce at this time the statement from a Boston paper under date of April 5——

Mr. CALLAHAN. Note our objection to that. April 5 when?

Mr. O'CONNELL. Nineteen nineteen. It is as follows:

(Read by Mr. O'Connell and marked "Exhibit 122.") "Cable dispatch received by Mr. and Mrs. Frank DiPesa, of Mountain Avenue, Revere, announces their son, Ensign John A. DiPesa, who has been overseas for nearly a year, has sailed for home." Then it goes on to state something about DiPesa being a graduate of the schools.

Mr. O'CONNELL. This is introduced at this time to show that the statement concerning the residence of the DiPesas is at Mountain Avenue, Revere, as stated Mr. Tague in his direct testimony, although assessed and registered at the Napoli.

Q. Did you receive this telegram [showing witness paper]?—A. Who is that from? John F. Fitzgerald?

Mr. O'CONNELL.

BOSTON, MASS., February 5, 1917.

HON. PETER F. TAGUE, Member of Congress, Washington, D. C.

Get information for me on German situation. Important that we hear from you before 11.30 to-day.

(Signed) J. F. F.

Q. J. F. F., who is that?—A. John F. Fitzgerald.*

Notary BERMAN. What is the date of the telegram?

Mr. O'CONNELL. February 5, 1917.

Mr. CALLAHAN. Note our objection to that. What do you intend showing by that?

Mr. O'CONNELL. Showing that Fitzgerald and Mr. Lomasney were connected with the German propaganda.

(Telegram Feb. 5, 1917, marked "Exhibit 123.")

Q. Now, Mr. Tague, shortly after Mr. Martin Lomasney appeared on the stand in this case, did the Boston Post commence running a story of him, an obituary of him, or a biography?—A. It did.

Mr. O'CONNELL. I offer at this time—are these the stories, written by the "Post"?—A. They are.

Mr. O'CONNELL. I introduce these and will you be good enough to mark these, (to stenographer).

Q. Mr. Lomasney had testified he was not the boss of ward 5, didn't he?—A. He did.

(Newspaper articles marked "Exhibit 124.")

Mr. O'CONNELL. I am introducing this story printed in the Boston Post, which purports to have the largest morning circulation of any paper in this country, and a democratic paper, in rebuttal of Mr. Lomasney's statement repeatedly made under oath that he was not the boss of ward 5, and that he didn't have political control of that ward, and this story began immediately after Mr. Lomasney had made the sensational statement here that he was not the boss of ward 5.

Mr. CALLAHAN. Note my objection.

Notary BERMAN. Note Mr. Callahan's objection.

Mr. CALLAHAN. To the admission of that evidence and statement of counsel.

Mr. O'CONNELL. Now, then, I offer—this story was widely advertised, was it not, Mr. Tague?—A. It was.

Q. And the Boston Post advertised it in other papers printed in Boston?—A. Yes, sir.

Mr. O'CONNELL. I offer these copies of the advertisements, one printed in the Boston Transcript and the other in the Boston Record.

(Advertisement printed in Boston Transcript marked "Exhibit 125" and the one in the Boston Record marked "Exhibit 126.")

Mr. CALLAHAN. Note my objection to this also.

Notary BERMAN. Note Mr. Callahan's objection.

Q. I will now ask you if you have found the names of any additional voters in ward 5, and their residence, concerning testimony given in this case, and if so, will you give us the names and what the situation is concerning them?

Mr. CALLAHAN. Note our objection to that, please.

Notary BERMAN. Note Mr. Callahan's objection.

A. John T. Philbin registered from 2 Province Court, his home is in Swampcott. John T., jr., registered at 2 Province Court, his home is at 47 Dakota Street, Dorchester.

Q. This Province Court address is a barroom?—A. Is a hotel and barroom.

Q. These men are interested in the hotel?—A. They own it.

Q. And a liquor business goes on there.—A. Daniel McGonagle lives at 30 Princeton Street, Medford; Daniel Crowley lives at 24 Chambers Street, a carpenter in the bridge department; Thomas P. Murray's name was voted on, he lives at 36 Worcester Square and engineer in the Shipping Board.

Q. Did all these men vote? Were their names voted on?—A. All voted on.

Q. On election day?—A. Yes, sir.

Q. In the primary?—A. Yes, sir.

Mr. CALLAHAN. Note my objection to that.

Mr. O'CONNELL. I think you may inquire. I would like to ask for a recess for two or three minutes.

Notary BERMAN. We will take a recess for five minutes.

RECESS.

Notary BERMAN. The hearing will now be resumed.

Mr. O'CONNELL. In regard to the connection between Mr. John F. Fitzgerald and Mr. Martin M. Lomasney and when Mr. Grenville McFarland is sent down

to Washington by Mr. Lomasney to prevent Kearns from getting the contract, I offer this letter:

[Republic Publishing Co., Publishers of Republic, Boston's Leading Weekly.]

30 STATE STREET, BOSTON, MASS..

January 9, 1917.

Congressman PETER F. TAGUE,

House Office Building, Washington, D. C.

MY DEAR CONGRESSMAN: Grenville McFarland would like to go as a delegate from the congressional district to the constitutional convention, and it seems to me that he would be a good man for you to favor. Have talked matter over with Martin, who thinks matter can be arranged.

Yours, respectfully,

(Signed)

JOHN F. FITZGERALD.

Mr. CALLAHAN. I object to that.

Notary BERMAN. Note Mr. Callahan's objection.

(Letter marked "Exhibit 127.")

Q. As the result of that, Mr. Grenville McFarland was a candidate to the constitutional convention?—A. He was.

Q. And Mr. Martin Lomasney sent him as his representative, going to Washington for contracts?—A. Yes, sir.

Q. Where did he live?—A. Swampcott.

Q. Outside of the district?—A. Yes; about 15 miles.

Mr. O'CONNELL. That's all.

Cross-examination by Mr. CALLAHAN:

Q. Mr. Tague, you don't say Mr. McFarland voted in the district, do you?—A. No.

Q. I think you said, Mr. Tague, you would be glad to furnish all the evidence you could about this large illegal registration to the election commissioners—will you tell us now any good reason why you haven't furnished that evidence to the board?—A. I went to the board and told the board I was ready to proceed to furnish it.

Q. Now, will you tell us any good reason why you didn't go to the board and give them this evidence that you say you were ready to produce?—A. There was no occasion for me to. I was ready to furnish evidence when they would go on with my case.

Q. You knew that Mr. O'Connell had been notified of a hearing before that board on your petition?—A. Yes.

Q. You had been the first told about it, hadn't you?—A. Not by the election board.

Q. By your associates and from the time you were told until election, did you ever once say to that commission that you were ready to prove your case?—A. Oh, yes; I did.

Q. Did you go there with any evidence?—A. I went there to see how soon they would hear us.

Q. What did they say?—A. They said it was getting late, they were getting the ballots ready, and it was only a week before election—

Q. Did the ballots have anything to do with that?—A. They had these name—

Q. You went there alone and talked with—A. Mr. Burlen.

Q. Did you ever go with any evidence—A. No. They knew I was pretty busy.

Q. You knew you had to make a prima facie case?—A. I went there to do it.

Q. You went alone?—A. Yes.

Q. With any of your attorneys?—A. No; he was away.

Q. What did you say when you went to do that?—A. Mr. Burlen—

Q. That you wanted to know the time—A. Wanted to know from him when we would be heard.

Q. Know from him when you would be heard?—A. Yes, sir.

Q. Do you want to say, now, Mr. Tague, that you went there at any time between the time you were notified and election day and asked to be heard on those names?—A. I just said so.

Q. Do you mean to say that that board denied you the opportunity to prove a prima facie case on your petition?—A. The best proof is they never called us.

Q. Will you say that board denied you the opportunity to go out and prove a *prima facie*?—A. Certainly, I say that now.

Q. None of your attorneys had gone with you?—A. Mr. O'Connell had gone away.

Q. Mr. Goodwin or Mr. Harrington didn't go with you?—A. No; I went alone.

Q. Now, I am only going to take a few minutes, but you spoke about some hotels, Mr. Tague, and you spoke of some hotels being reputable and other hotels being disreputable—will you please tell us how many of these hotels you have been in?—A. Very few.

Q. And where did you get your knowledge that certain of these hotels were disreputable?—A. Why, common knowledge that everyone has around Boston that knows anything about Boston.

Q. Will you say the Revere House is a disreputable place, that has 56 votes?—A. That has been proved.

Q. The Quincy House is disreputable, 39 votes?—A. Not so far as disreputable, but had a lot of illegal voters.

Q. Isn't it true there are a lot of hotels down there where men go and live for a few days, and in a great many instances would be gone—be there only a few days?—A. That was very pronounced on the list we put in, they were gone, lived there a few days, if they lived there at all.

Q. You know that is true as well in the south end, that they move from one cheap lodging house to another? That's true?—A. Yes.

Q. A very great many of those men?—A. Yes.

Q. Now, isn't it also true, that in making a discrimination between those hotels, the ones you referred to first, such as Young's, Parker House, Clark's and the Touraine, and those hotels, they either cater to a commercial public, or a traveling public, rather than people who are staying there permanently, isn't that so?—A. Well, I don't think that is the case.

Q. Don't you know that of your own knowledge? Take the Touraine, for instance?—A. Yes.

Q. There aren't very many people living there permanently, are there?—A. Quite a few.

Q. Do you know of any?—A. No.

Q. You don't know of any of your own knowledge?—A. No.

Q. Any knowledge is obtained from other persons?—A. Yes, sir.

Q. Take the Parker House?—A. I think the Parker House is more of a family hotel than any hotel in the city.

Q. What do you say of Young's?—A. Not so much so.

Q. And that is true of those hotels you call first-class hotels?—A. Yes, sir.

Q. Now, isn't it just as true there are some of these smaller and poorer hotels where people live permanently?—A. Like what?

Q. These hotels you referred to, such as the Bowdoin, and Merrill House, and Central House?—A. I don't think so with the Central House. I don't think many men live there permanently.

Q. That hotel at the corner of—it is true at those houses they have a great many people who stay there permanently?—A. I don't think so.

Q. You don't know?—A. I am taking for granted the voting list.

Q. When you gave the names and number of these men who are at these hotels, are those the names of men listed or registered?—A. Registered.

Q. Now, there is one other thing that I want to speak about, and that is about your campaign for the mayoralty, and in that campaign this Francis Heedy was your campaign treasurers?—Yes, sir.

Q. And you know he received contributions from people, Mr. Buckley and Mr. Emerson?—A. He says so.

Q. And you know that both Mr. Buckley and Mr. Emerson were both connected with the pneumatic tubes?—A. I believe they were.

Q. Mr. Buckley as counsel and Mr. Emerson as director?—A. I think Mr. Emerson was out of it. He was a major in the Army.

Q. Can you give any reason, Mr. Tague, why either of these men, not being residents of Boston, not particularly interested in a mayoralty campaign, should give you contributions for your campaign, unless it was for your services in Congress?—A. Oh, yes. I had known Dan Buckley since I was a little bit of a child. He is related to close relatives of mine. Mr. Emerson I have known for 15 years, was in the Institute of Technology with him.

Q. And they didn't subscribe to your campaign fund in this last campaign, did they?—A. I would not allow them to.

Q. Finally, one did?—A. No. I wouldn't let them.

Q. And you wouldn't say it if they did?—A. No.

Q. This campaign was in the fall of 1917?—A. Yes.

Q. And when was this contest in Congress over the tubes?—A. In July, 1917.

Q. In July, 1917?—A. It closed then.

Q. Was the final vote taken then?—A. Yes.

Q. And it was in the following fall they gave these contributions. There isn't any doubt, Mr. Tague, that you favored, and favored with all your strength, the retention of these tubes by the Government, is there?—A. Everybody did.

Q. But there isn't any doubt but that you did?—A. No; I worked as hard as I knew how.

Q. And when the President vetoed it, you didn't vote against the veto?—A. No, no; voted against the veto.

Q. There was a veto?—A. Yes.

Q. And it went into the House again?—A. Yes, sir.

Q. And voted on it?—A. Yes, sir.

Q. And wasn't any debate on it?—A. Yes, sir.

Q. And you voted against the President's veto?—A. Certainly, I would vote again to-morrow the same way if I knew I was right.

Q. Now, this controversy you and Mr. Murray had over opening your mail, whether your mail was opened or not, the charge was made somewhere?—A. Yes, sir.

Q. Did you ever make the charge?—A. No.

Q. Did you know the charge was made?—A. I was in Boston when the charge was made.

Q. You knew, Mr. Tague, it was in the newspapers at that time?—A. Not at that time, after, in the hearing, I was there.

Q. And you knew here, in Boston and probably in Washington, of that charge, the hearing was pretty prominent?—A. There was an investigation of it.

Q. And was that investigation taken up on your initiative?—A. No.

Q. Do you know how it was taken up?—A. I think the post-office clerks of the country demanded it.

Q. Do you know that Mr. Murray went to Washington to refute this alleged charge that your mail was opened?—A. Yes, sir.

Q. Went there for that purpose?—A. Yes, sir. Called down there by the Postmaster General, and landed in Washington the same day I did.

Q. Now, there was some feeling between you and Mr. Murray?—A. Not at all. I never had any feeling. I am sorry that Billy Murray's name has been brought in, and he should be—I think, you should let the dead rest.

Q. You didn't let him rest?—A. I told the truth. I hate to see a man brought in that is dead, and then to see a man try to cloak himself with it.

Q. That's a good way for all of us, if we could practice it I suppose.—A. I do try to practice it.

Q. There isn't any doubt whatever, Mr. Tague, that you wrote the letter that Mr. Lomasney introduced here in his evidence?—A. I certainly wrote it.

Mr. CALLAHAN. That's all.

Redirect examination by Mr. O'CONNELL:

Q. Just one question. Mr. Callahan has tried to intimate that these people who are accused of illegal registration are poor people. What do you say to men like Mr. ———? Isn't it true that a great many of those men that are accused here are men of much wealth and have plenty of property?—A. I should say so.

Q. Probably one half of that list of over 500 names are a list of men who own their own hotels and live outside the city of Boston, are they not?—A. I should say so.

Mr. O'CONNELL. That's all.

Mr. CALLAHAN. That's all.

Notary BERMAN. That's all.

Mr. O'CONNELL. To-morrow, at 2 o'clock.

Notary BERMAN. This hearing is now adjourned until to-morrow afternoon at 2 o'clock.

PETER F. TAGUE.

(Adjourned.)

Hearing held in room 443, Federal Building, Boston, Mass., April 23, 1919, at 2 p. m. before Abraham C. Berman, Esq. (presiding), and David Mancovitz, Esq., as notaries public.

Counsel: Joseph F. O'Connell, Esq., Arthur Harrington, Esq., and Frank Goodwin, Esq., for the contestant; John P. Feeney, Esq., Timothy F. Callahan, Esq., and Vincent Brogna, Esq., for the contestee.

Rebuttal:

Notary BERMAN. The hearing will now be resumed.
(One witness sworn.)

WILLIAM TAYLOR, sworn.

Direct examination by Mr. O'CONNELL:

Q. Senator, your full name, please?—A. William Taylor.

Q. And you are the political editor of the Boston Post?—A. No.

Q. You are connected with the Boston Post?—A. Yes, sir.

Q. The Boston Post is the paper that has the largest morning circulation of any paper in the country, I believe; is it?—A. Why; I don't know as you want me to answer that question, Congressman; do you?—I have nothing to do with the business of that office.

Q. It is a paper with a very large circulation, you will admit that?—A. I will admit anything that is favorable to the Post.

Q. I don't want you to give me anything except that will absolutely be the fact. Was this story in connection with the life of Martin M. Lomasney written by you?—A. Yes.

Q. You have had a very intimate knowledge with the life of Mr. Lomasney, speaking in a political way?

Mr. CALLAHAN. I wish at this time you would please note my objection to this evidence. It is clearly not in rebuttal.

Notary BERMAN. Note Mr. Callahan's objection. You may answer, Mr. Taylor.

A. I have been acquainted with Mr. Lomasney for 30 years—35 years, if not longer.

Q. How long have you known him?—A. I have known him 30 years, and probably 35.

Q. You have followed the political situation in ward 5, formerly ward 8, rather closely all through your 35 years' acquaintance with Mr. Lomasney?—

A. I think, sir; yes, sir. I have followed the political situation in all the wards.

Q. You were a resident formerly in old ward 8?—A. I was.

Q. And associated with Mr. Lomasney in many political movements of that ward?—A. I was.

Q. I call your attention to this: "The Career"—the issue of the Post of Monday, March 17, 1919, which has the story of the career of Mr. Lomansey, this line: "Life Story of Famous Political 'Czar' of Ward 8, Boston."

"Facts never before known to the public—anecdotes never before told—a pen picture true to life—form the basis of this remarkably interesting biography. It is the biography of one who, as a boy, 'rose from the ranks' to become a man of wealth and of acknowledged power in municipal, State, and national affairs, but who always prided himself on continuing a man of the people, and, as he significantly termed it, 'a six-o'clock Democrat.' The story will be continued in the Daily and Sunday Post until completed."

Mr. CALLAHAN. Are you reading that for the record, Mr. O'Connell?

Mr. O'CONNELL. Yes; I am reading it as part of the question.

Q. Now, Mr. Lomasney was known as the czar of ward 8 a great number of years?

Mr. CALLAHAN. That I object to. You should ask proper questions. I think you ought to ask Mr. Taylor whether or not he wrote the headings.

Mr. O'CONNELL. When I get through he will be your witness.

(Question read by stenographer.)

Q. Will you answer that?—A. I couldn't answer that.

Q. You have used the term "Czar of ward 8, Boston," repeatedly in the story, I think, have you not?—A. I think always conditionally we termed him that.

Q. Have you said it in any of his stories?—A. I think always conditionally.

Q. Pardon me, in any one of your stories is there anywhere you put in that condition?—A. I think so.

Q. Will you point to any one?—A. I think you have got them all.

Q. You described his as "boss"?—A. I don't think so in the article.

Q. The article speaks for itself?—A. Surely.

Q. You wrote the whole article?—A. Surely.

Q. Nobody else?—A. Nobody else.

Q. And of course the article is truthful?

Mr. CALLAHAN. Now, you need not answer that, Mr. Taylor.

The WITNESS. I don't think the Congressman wants me to answer that.

Q. Of course I want you to answer that. You wrote the article?—A. Yes.

Q. And of course it is truthful? You were not interjecting any fiction when you wrote it?—A. Not that I know of.

Q. And it is facts as you knew them?—A. That's right.

Q. I call your attention to this article in the Post of March 23, 1919:

“THE INNER SHRINE.

“There is still another hall which has had a lot of interest for Mr. Joseph F. O'Connell, the counsel for Congressman Tague. It is named Donovan Hall, in memory of the late Hon. Edward J. Donovan. There assembles on the first Friday of each month the real membership of the Hendricks Club, about 250 in all. In this membership are the precinct captains, also men who at one time were residents of the ward and removed to other sections of the city, but who still pay their dues of \$1 a month. It was the official roll of this membership that Counsel O'Connell strove so strenuously to secure and Martin as strenuously to hide.

“No one is admitted to these meetings unless he has a card signed by M. Barry, the son of Mrs. Barry, who attended Mrs. Mary Lomasney the day her son Martin was born. Mrs. Barry was known among all the neighbors as being even more important and serviceable on such an occasion than the attending physician. She may be said to have brought Martin into the world. It is her son's signature on the membership cards that admits beyond the portals of Donovan Hall.

“All these men are absolutely loyal to Martin and his candidates, and their influence embraces every ward in the entire city. They accept Martin's decision without question. They have their personal likes and dislikes, the same as any other group of men. They have their personal preferences among opposing candidates; but, at the word, followed by the explanation of their leader, their individuality ceases at least for the campaign then on tapis, and it is all for one and one for all until the votes are counted. It is doubtful if there are in the Hendricks Club membership a dozen men, who, if left to themselves, would have supported John F. Fitzgerald in the recent congressional election; it is almost a certainty that all of them having a vote in the district supported his candidacy on election day.

“These men are the real source of Martin's political strength. They do not only do things, but they know how to do them. They accept the word and go forth to accomplish it. The general committee of a New York Tammany ward organization has nothing on the real membership of the Hendricks Club.

“Counsel O'Connell would have given much for a peep at the roll bearing these 250 names, but he failed to get officially a single one of them. They would have been a revelation, and Counsel O'Connell delights in revelations. Counsel O'Connell has never found the doors of the Hendricks Club closed to him on any of his visits to the Democratic headquarters of the ward, but it is doubtful if he ever knew of the existence of the Donovan Hall as an annex to the Hendricks Club; and, while he may be considered as a fair guesser at the real membership of the club, he has never as yet found out, with the exception of a few of the prominent ones, just who is and who is not a member.”

Mr. CALLAHAN. Now, is there a question?

Mr. O'CONNELL. Mr. Taylor is on the stand.

Mr. CALLAHAN. I would like to know whether you are answering a question or not?

Mr. O'CONNELL. Why do you interrupt?

Q. You wrote that, Mr. Taylor, did you not?—A. I did; yes.

Q. And that was published in the Sunday Post March 23, 1919?—A. Is that the date there?

Q. Yes.—A. Yes.

Q. During the time this hearing—since this hearing started?—A. It was published in the Post of that date.

Mr. CALLAHAN. Note my objection to that answer.

Notary BERMAN. Note Mr. Callahan's objection.

Q. In that same article, the paragraph above, in full, describing, under the title, "Oak-tree politics," and follows: "There is a large hall where those famous Sunday-before election meetings are held, at which Martin M. Lomasney explains the club's reasons for supporting some candidates and opposing others." You wrote that?—A. Is it there?

Q. Yes.—A. Yes. I didn't write that caption "Oak tree."

Q. I said one paragraph entitled "Oak-tree politics"?—A. The body of the article?

Q. Yes.—A. Yes; I wrote it if it is there.

Q. I call your attention to an article in March 26th Post, and call your attention to this:

Mr. CALLAHAN. Kindly note my objection.

Notary BERMAN. Note Mr. Callahan's objection.

Q. Under the caption "Lomasney's part in the career of 'Honey Fitz,'" which reads as follows:

"Mr. Lomasney, who never takes anything for granted in politics, was sure he could rely on him (Edward J. Donovan) to win. He was right. Mr. Donovan voted with Lomasney, and ward 8 passed to the leadership of Martin M. Lomasney and has remained under his leadership ever since."

Q. That's true, isn't it?—A. As far as I know, of course.

Q. And you have so written: "There have been strenuous efforts made, from time to time, to weaken his control in the ward, notably when James J. Storrow was a candidate for mayor against John F. Fitzgerald; but, while Mr. Storrow received a surprisingly large vote for a man running in the ward without the indorsement of the Hendricks Club, still the result of that contest was again an indorsement of Mr. Lomasney's leadership and of Mr. Lomasney's candidate."

Q. Now, Senator, I now introduce as exhibits the story of the life of Martin M. Lomasney in the Boston Post.

Mr. CALLAHAN. Kindly note my objection to the admission of that evidence.

Mr. O'CONNELL. I offer it for identification.

Notary BERMAN. It may be admitted. Note Mr. Callahan's objection.

Mr. O'CONNELL. That's all Senator. I am much obliged to you.

Cross-examination by Mr. CALLAHAN:

Q. Now, Mr. Taylor, I noticed in the last article read to you by Mr. O'Connell, he made some reference, or you referred, you made some reference to Mr. Lomasney's leadership—that's what you term Mr. Lomasney down there, isn't it—a leader?—A. Sure.

Q. And you have never referred to him as a "boss" or a "czar"?—A. Never.

Q. You have know him for a great many years, Mr. Taylor, haven't you?—A. Yes.

Q. And I think you said the day you testified here before, you didn't vote for Mr. Fitzgerald, and you did vote for Mr. Tague?—A. Well, of course, as a lawyer you are intruding upon the Australian ballot law.

Mr. O'CONNELL. I object to this because there was nothing of this kind brought out in rebuttal.

Notary BERMAN. I think the objection is sustained. Mr. Taylor need not disclose—

Q. I don't want to say anything to hurt your feelings.—A. You are not hurting my feelings, but you are intruding on the Australian ballot law.

Mr. CALLAHAN. However, if there is any objection I will withdraw it.

Q. In all those articles that you wrote Mr. Taylor, you never once referred to any colonization in that ward, did you?—A. Never.

Q. And you don't—A. That is, I don't remember of having done so.

Q. You don't believe that Mr. Lomasney's leadership in that ward is a leadership gained by colonization?

Mr. O'CONNELL. Just a second. I don't think he is entitled to express his opinion on that.

Mr. CALLAHAN. I think you are entitled to have your exception noted.

Mr. O'CONNELL. I said nothing in rebuttal to allow you to ask him that question.

Notary BERMAN. The objection is sustained.

Mr. CALLAHAN. Do I understand you are ruling out these questions?

Notary BERMAN. Note the ruling sustaining the objection of Mr. O'Connell.

Mr. CALLAHAN. Is that the formula you always practice in these hearings?

Notary BERMAN. I don't think we shall have to discuss it, Mr. Callahan. I have made my ruling on that.

Mr. CALLAHAN. Do I understand, now, that I am going to be limited in my examination of this witness, and Mr. O'Connell is going to be permitted to have questions ruled out, and I am only permitted to have the right to have objections noted? Do I understand you are making that distinction between Mr. O'Connell and myself?

Notary BERMAN. I am making no distinction. I believe the objection is a valid one and should be sustained.

Mr. CALLAHAN. Then, I ask you, sir, to state why you didn't pass on my objections and see if they were valid or not.

Notary BERMAN. There was no reason to. Your objections were noted.

Mr. O'CONNELL. It is cross-examination of Mr. Taylor, but there is a limit to all rules on the question and what is brought out in rebuttal.

Mr. CALLAHAN. The attitude of the notary in rebuttal is perfectly obvious. You submitted articles; I have a perfect right, and I have a perfect right to ask Mr Taylor questions on every line in them.

Mr. O'CONNELL. Go to it. Do it. Won't you please do it?

Mr. CALLAHAN. Now, for the record, I want the attitude of the notary shown.

Q. Will you please state, if you will, and the notary will permit it, just why Mr. Lomasney has attained this remarkable leadership in that district?

Mr. O'CONNELL. I don't know as Mr. Taylor should be called upon to answer a question of that type.

Q. You may answer, Mr. Taylor.

Mr. O'CONNELL. I object. It is calling for an opinion.

Notary BERMAN. The question is ruled out.

Mr. CALLAHAN. I don't think I care to ask any more questions.

Mr. O'CONNELL. All right, Senator, you are excused.

(One witness sworn.)

JEREMIAH A. DESMOND, sworn:

Direct examination by Mr. O'CONNELL:

Q. What is your full name?—A. Jeremiah A. Desmond.

Q. Where do you live?—A. 56 Crescent Avenue, Dorchester.

Mr. CALLAHAN: Where is that, please?

The WITNESS: 56 Crescent Avenue, Dorchester.

Q. I show you this envelope [indicating], and ask you if you have seen that envelope before?—A. Yes, sir.

Q. Where did you get it?—A. Why, I picked that up in the corridor of the election commissioners, City Hall Annex.

Q. On what date?—A. The 15th of October.

Q. Last?—A. Yes, sir. The 15th or 16th.

Mr. O'CONNELL: I offer this envelope.

Mr. CALLAHAN: For what purpose, please?

Mr. O'CONNELL: In contradiction of Mr. Lomasney and Mr. Burlen that they had no communication between each other during this controversy.

(Envelope marked "Exhibit 128.")

Q. Are you familiar with the handwriting on the envelope?—A. Mr. Burlen's, yes, sir.

Q. Mr. Melancthon W. Burlen?—A. Yes, sir.

Q. The envelope reads as follows: "Hon. Martin Lomasney, from M. W. Burlen." You kept it after you picked it up?—A. I put it in my pocket, and carried it about a month, and on the street one day I met Mr. Kane, and showed it to him, and he took possession of it.

Mr. O'CONNELL: You may inquire.

Cross-examination by Mr. CALLAHAN:

Q. I suppose you gave it up reluctantly, Mr. Desmond?—A. Very.

Q. Very reluctantly, and do I understand by that that Mr. Kane took it forcibly from your possession?—A. I showed it to him and he didn't give it back.

Q. Why did you show it to him?—A. Well, I wanted to prove to him, in this controversy between himself and the election commissioners, he was rather up against it.

Q. Why did you want to prove?—A. Why, I was interested as a good citizen.

Q. What was your interest?—A. What's that?

Q. Tell us what your interest is?—A. I am interested in the proper conduct of elections.

Q. You are interested in the proper conduct of elections?—A. Election Commissioners.

Q. Election commissioners?—A. The Republican election commissioners.

Q. What else have you done, besides giving this letter to Mr. Kane, to show your interest for the proper conduct of the election commissioners?—A. I have attended hearings on one or two different occasions.

Q. What else have you done besides attending hearings?—A. Nothing else.

Q. Nothing else?—A. I have read the newspapers.

Q. Naturally. So, besides reading the newspapers, and attended two or—
A. Perhaps three.

Q. Or three hearings, and given this to Mr. Kane, you haven't done anything, that's so, isn't it?—A. Yes, sir.

Q. You are interested in politics?—A. Very much so.

Q. You are employed permanently in politics, aren't you?—A. Yes, sir.

Q. By whom are you employed?—A. The Good Government Association.

Q. The Good Government Association. Who pays you?—A. The Good Government Association.

Q. You work for Mr. Bottomley, don't you?—A. No, sir.

Q. Where are your offices?—A. 502 Barristers Hall.

Q. Isn't that Mr. Bottomley's office?—A. In the same suite, yes, sir.

Q. That is actually Mr. Bottomley's office, isn't it?—A. Yes, sir.

Q. You are not employed all the year round by this Good Government Association, are you?—A. Yes, sir.

Q. What are your duties?—A. Whatever I am required to do by the executive committee.

Q. What are you required to do?—A. Well, from time to time, they give me certain duties to perform.

Q. What are they?—A. I look up the records of candidates for city offices.

Q. Now, as a matter of fact, Mr. Desmond, with the exception of a few months in the fall, you don't do anything in a political way, do you?—A. Oh, yes, during the entire year.

Q. What do you do during the spring and summer?—A. Why, I keep the office open.

Q. You keep the office open for Bob Bottomley, don't you?—A. No. His office is at 161 Devonshire Street.

Q. Any clients that stray in, you corral them, don't you?—A. No; his office is at 161—

Q. Where is your office?—A. 501 Barristers Hall.

Q. Do you mean to say his law office was never at Barristers Hall?—A. He never had one.

Q. When did he move?—A. He never had one.

Q. Where is it?—A. 161 Devonshire Street.

Q. Does the good government association require you to go down to the election commission at times?—A. Yes.

Q. And when they have hearings before the election commissioners, do you—the good government association asks you to go down there?—A. They don't ask me. I go. I understand what my duties are.

Q. In your connection with the good government association, did you go there this day and find this envelope?—A. No. I went there to attend a hearing.

Q. Attend what hearing?—A. This recount hearing.

Q. A recount hearing, yes; and what date was it?—A. Either the 15th or 16th of October.

Q. The 15th or 16th of October?—A. Just a few days after Columbus Day.

Q. You say you know Mr. Burlen's handwriting?—A. Yes, sir.

Q. You say this is his signature at the bottom (indicating)?—A. Yes, sir.

Q. Is that his writing there (indicating)?—A. Yes, sir.

Q. At the top?—A. He wrote that address on the envelope.

Q. You say "Hon. Martin Lomasney" is his writing?—A. Yes.

Q. What do you say about this, down here (indicating)?—A. That's his signature right there.

Q. And you say the same person wrote both of those?—A. In my judgment.

Q. In your judgment. Did you go at any time to Mr. Burlen and find out what was contained in there?—A. After Mr. Kane took that I rather forgot all about it. At the time I didn't attach any great importance to it.

Q. You never made any investigation to find out when that was written?—A. No; it turned up this morning, much to my surprise. I dismissed it from my mind last October.

Q. You don't mean to say, Mr. Desmond, that Mr. Kane took it from you forcibly?—A. After it got in his hands he didn't give it back.

Q. Did you ask him to give it back?—A. I don't think I did.

Q. Isn't it a fact, Mr. Desmond, that you found this letter, and you then gave it to Mr. Kane—he didn't take it away from you?—A. No; he didn't—

Q. You offered it to him?—A. No; I said "I've got something here to show you you are simply wasting your time with this election board."

Q. You don't know whether it was written in October or a year before?—A. No.

Q. And you didn't make any investigation to find out?—A. No.

Q. Where did you find it?—A. Outside the election door.

Q. Outside the election door?—A. In City Hall Annex, about 25 feet from there.

Q. You have nothing against Mr. Lomasney?—A. No.

Q. Nothing against Mr. Burlen?—A. No.

Q. And are not particularly friendly with Mr. Kane?—A. Not particularly friendly, any more than I am with you.

Q. Are you very friendly with me?—A. I should hope so.

Q. That's very nice of you to say that, Mr. Desmond; but I don't think I will ever put your friendship to this test. There was nothing in this envelope?—A. Just as you see it there.

Q. Just as you see it there; with no date on it?—A. No.

Q. Nothing to indicate—of course, it wouldn't be unusual for Mr. Burlen to send anything in a political way to Mr. Lomasney?—A. I don't know as to that.

Q. And Mr. Burlen might send to you in a political way?—A. If he sent to me, he would send it typewritten.

Q. He would send the envelope typewritten?—A. We have always received Mr. Burlen's communications in typewriting.

Mr. CALLAHAN. That's all.

JEREMIAH A. DESMOND.

Mr. O'CONNELL. I now offer the list of persons summoned to appear before the Ballot Law Commission in 1918, which were summoned by the Sergeant at Arms. This was the list to be typewritten off.

Mr. CALLAHAN. I object to it.

(List marked "Exhibit 129.")

Mr. O'CONNELL. Now I offer certified copy of a memorandum and order for final decree in the case of *Chase v. Proprietors of the Revere House et al.*, No. 15018 Eq. Suffolk Superior Court records. This is offered in rebuttal of testimony of Mr. Lomasney that the Revere House was a very respectable house.

Mr. CALLAHAN. I want to object to that.

Notary BERMAN. Note Mr. Callahan's objection, and it may be admitted.

Mr. O'CONNELL. "Commonwealth of Massachusetts. Superior Court in Equity. No. 15018. *Jason F. Chase v. Proprietors of the Revere House et al.* Memorandum and order for final decree.

"In accordance with the terms of the report to the Supreme Judicial Court heretofore made in this case, and in accordance with the opinion of that court in regard to all the defendants' requests for rulings and the motion for a jury trial, I now make the following additional findings of fact:

"1. I find that a very considerable portion of the revenue derived by the defendant, Harrison, from the operation of the Revere House, was derived from the business of prostitution, assignation, and lewdness carried on therein. At the same time a legitimate hotel business was also carried on therein.

"2. I find that the so-called "grotto," or beer garden, on the Bulfinch Street side of the hotel, was used chiefly for the purpose of assignation and immoral bargainings by men and women who resorted thereto in great numbers, and that many rooms in the hotel were hired, used and occupied by them for purposes of prostitution and lewdness.

"3. Although the evidence tended to show the more or less frequent use for informal purposes of certain rooms upon various floors of the hotel, I find specially that rooms on the third floor were frequently and at times almost continuously used for said purposes; and that some of them were so used many times even on the same day.

"4. I find that the notice given by the plaintiff to the defendant corporation as the record owner of the premises was served five or more days before the plaintiff's bill was filed, and that notwithstanding said notice, the de-

fendant corporation took no steps to enforce its rights against the defendant Harrison as provided in R. L. c. 101, sec. 10, as amended by St. 1914, c. 624, sec. 13.

"5. I find that the nuisance complained of exists and that the plaintiff is entitled to the relief prayed for in his bill.

"Let a final decree in accordance with the foregoing memorandum be entered.

"1919, MAR. 21.

"[Copy.]

"Attest:

"JOHN F. BROWN, J. S. C.

"EDMUND S. PHINNEY.

"Assistant Clerk."

Mr. CALLAHAN. Note our objection to that, please.

Notary BERMAN. Note Mr. Callahan's objection.

Mr. O'CONNELL. I will ask that we adjourn now until Friday morning at 10 o'clock.

(After conference with counsel, Mr. O'Connell agreed to notify counsel if hearing was to be held on Friday.)

(Adjourned.)

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, stenographer, appointed by Abraham C. Berman to take and reduce to writing the testimony of the witnesses in the contested election of Peter F. Tague *v.* John F. Fitzgerald, having first been duly sworn by the notary, do hereby make affidavit that I have truly and correctly recorded and transcribed the evidence of the above witnesses within this book.

BOSTON, MASS., *June 5, 1919.*

NANCY H. HARRIS.

Personally appeared above Nancy H. Harris and made oath that statement signed was true to the best of her knowledge and belief.

ABRAHAM C. BERMAN.

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I hereby certify that the foregoing in this volume, containing about 71 pages, together with the notice of contest and answer, is a true and correct copy of the testimony taken before me, under oath, in the contested election of Peter F. Tague *v.* John F. Fitzgerald, beginning February 19, 1919; exhibits herein referred to are marked as described and made part of this record.

ABRAHAM C. BERMAN,

Notary Public.

BOSTON, MASS., *June 5, 1919.*

COMMONWEALTH OF MASSACHUSETTS,

Suffolk, ss:

I, Abraham C. Berman, notary public, residing at 179 Lexington Street, East Boston, in the tenth Massachusetts congressional district, do hereby certify that after due notice to John F. Fitzgerald, I have taken the testimony of all the foregoing witnesses. Said witnesses appeared before me, after being duly sworn, and after examination of said witnesses their testimony was reduced to writing, was severally signed by them as appears above, and I further certify that those witnesses who did not sign their testimony were examined under oath in the same manner and were ordered by me, as notary, to return to read their testimony and to sign the same; but that they have persistently refused to do the same. I further certify as to the truth of their above statements that they were made on oath, also taken and transcribed by the persons appointed by me to so record their testimony. That the exhibits accompanying this record were received by me and made part of said record.

ABRAHAM C. BERMAN,

Notary Public.

TESTIMONY FOR CONTESTEE.

I, David Mancovitz, of Boston, county of Suffolk, Commonwealth of Massachusetts, a notary public duly commissioned under the laws of the Commonwealth of Massachusetts, hereby certify that the testimony herein contained of Martin M. Lomasney, Melancthon W. Burlen, and Frederick A. Finigan, who personally appeared before me and under oath gave testimony for the contestee in the contested election case between Peter F. Tague, contestant, and John F. Fitzgerald, contestee, in the tenth Massachusetts congressional district, is a true transcript of the testimony taken before me on the 10th, 11th, and 12th days of March, A. D. 1919, and the 2d day of April, A. D. 1919.

[SEAL.]

DAVID MANCOVITZ, *Notary Public*.

Hearing held in room 443, Federal Building, Boston, Mass., March 10, 1919, at 10 a. m., before David Mancovitz, Esq., (presiding), and Abraham C. Berman, Esq., as notaries public.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant; John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the contestee.

Notary MANCOVITZ. Are you ready to proceed, Mr. Feeney?

Mr. FEENEY. Just a minute. Mr. Chairman, I will ask Mr. Lomasney to come forward and be sworn.

Notary MANCOVITZ. Mr. Lomasney, will you step forward?

[Mr. Lomasney assumes stand.]

Raise your right hand.

(The oath was administered to Mr. Lomasney by Notary Mancovitz, as follows:)

Do you solemnly swear that the testimony you shall give in the cause now in hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

MARTIN M. LOMASNEY.

By Mr. FEENEY:

Q. Your name is Martin M. Lomasney?—A. Yes, sir.

Q. Mr. Lomasney, in the petition in the case of Tague v. Fitzgerald, Mr. Tague sets forth this charge:

"Many witnesses summoned by the legal authorities of the commission," referring to the ballot-law commission, "the sergeant at arms, either refused to come when so summoned or the sergeant at arms was unable to locate them at their home residence or anywhere else within his jurisdiction. Said witnesses were kept from the hearing by the influence of your manager, namely, Martin M. Lomasney, and members of the Hendricks Club of ward 5, who were in constant attendance at the hearings, conducting the case in your behalf."

I ask you, Mr. Lomasney, whether or not that statement is true?—A. It is not.

Q. Mr. Lomasney, in that same petition, Mr. Tague alleges:

"In ward 5, the large vote which was cast for you was composed in a great part of those who have been colonized in said ward for the purpose of manipulation by the political organization of said ward, which colonization and illegal registration and illegal voting was contrary to the State and Federal law."

Mr. Lomasney, was there any illegal colonization of voters at this time, to your knowledge?—A. No, sir.

Q. In that same petition, Mr. Tague alleges:

"The returns from said ward 5 were withheld until other precincts were heard from, although the office of the election commissioners, to which returns ought to be made, is located in ward 5, and the booths in which the said counting took place are the nearest to the city hall of the city of Boston, to which the returns of the election must be made."

Mr. Lomasney, did you, directly or indirectly, have anything to do with the delaying of the election returns?—A. No, sir.

Q. On page 23, of my record, the following question was asked of Mr. Tague by Mr. O'Connell:

"Q. After you had filed your papers, were you offered any inducement by Mr. Lomasney or Mr. Fitzgerald, both of them, to retire?" And, after objection

on my part, and after an alleged conversation between Mr. Tague and Mr. Fitzgerald, Mr. O'Connell asked Mr. Tague whether or not he, Mr. Tague, had been offered any inducement to retire by you. Did you offer him any inducements to retire from the congressional contest?—A. No, sir.

Q. Mr. Tague testified relative to that matter as follows:

"I went down to see Mr. Lomasney when I heard I was to have opposition for renomination. I asked Lomasney about it. He said there was some objection to my being renominated and that there was some feeling because of my action in voting on the war and voting for conscription. I asked him who the opposition came from, and he named several people he said who had objected or would object to my receiving the nomination; but at this time he said nothing about Mr. Fitzgerald—John F. Fitzgerald." Did any such conversation, in substance, take place?—A. No, sir.

Q. Such as I have stated?—A. No, sir; we had a conversation——

Q. Pardon me, I am going to ask about the conversation.

Mr. Tague said, in answer to a question, an uncompleted question, he said:

"I met him"—

referring to you—

"a day or two after and asked him if the story was true that John F. Fitzgerald was to be a candidate for Congress? He told me that he had heard it; but he heard nothing definite from Fitzgerald; but that he did know that Fitzgerald and his friends had been going throughout the district trying to arouse a sentiment that way—that Fitzgerald should be a candidate for Congress.

"I told Mr. Lomasney I had a talk with Mr. Fitzgerald, not only in Boston but in Washington, and that Fitzgerald told me he was not a candidate and wouldn't be a candidate; but that Lomasney had asked him to be a candidate. Mr. Lomasney then said to me he thought if Fitzgerald was to be a candidate, I should withdraw from the fight. That he was going to be with Fitzgerald, and that I could be taken care of with a good position, and for me to call down and see Joe Lyons at the surveyor's office, at the appraiser's office. He also told me"—

Q. Who is Joe Lyons?—A. United States appraiser."

I ask you, Mr. Lomasney, did that conversation, in substance, ever take place at any second interview between you and Mr. Tague?—A. No, sir; we had no second interview.

Q. Then, that conversation did not take place?—A. No, sir.

Q. Did you ever suggest, either directly or indirectly, to Mr. Tague, that he retire from the contest and to go and see Joe Lyons so that he [Tague] might get a city job?—A. No, sir.

Q. Mr. O'Connell asked this question:

"What were you to call on Lyons for?—A. In order to have a talk with him about going to see the mayor and securing a position at city hall.

"Q. For the reward of getting out of the fight?—A. For the reward of getting out of the fight. He also told me further that Fitzgerald, being a rich man, and that he did not need the money, that he could go down there and be a big factor; and that he thought Fitzgerald would be ready to surrender two years' salary and that, perhaps, after Fitzgerald had served one term, that I could go back to Congress."

Did any such conversation as that ever take place between you and Mr. Tague?—A. No, sir.

Q. Did you ever, directly or indirectly, suggest to Mr. Tague that Mr. Fitzgerald would surrender his salary, his congressional salary, to Mr. Tague if Mr. Tague would retire from the fight?—A. No, sir.

Q. Now, Mr. Lomasney, I am calling your attention to the testimony of Mr. Tague, in order that you may answer the same, and I will now direct your attention to a hearing before the ballot law commission. In answer to Mr. O'Connell's question, Mr. Tague said—in answer to Mr. O'Connell's question, which was as follows:

"Q. Describe Mr. Lomasney's conduct as it affected the ballot law commission, telling us in detail how he acted toward them.—A. Mr. Lomasney, after he came into the room, immediately assumed almost complete control of the Fitzgerald case, and was informing Mr. Albers on every question that arose. It was very apparent to everyone that the commission was very much upset by Mr. Lomasney, and that they were fearful that they would do something that would offend him."

Did you observe anything on the part of that commission, of which Henry V. Cunningham was the chairman, which indicated to you that they were at all fearful of you?—A. No, sir.

Mr. O'Connell, in a question to Mr. Tague, asked Mr. Tague whether or not on the rostrum—as he put it—of the Hendricks Club on the night before election, you took off your coat and in anger and rage tramped all over it, insisting that Tague must be defeated at all costs? Did any such incident as that occur?—A. We had no meeting the night before election.

Q. Did any such incident as that occur, at any time?

Mr. O'CONNELL. Sunday afternoon was the question.

Mr. FEENEY. I am reading your question now.

Mr. O'CONNELL. Sunday afternoon was my question.

Q. On Sunday afternoon. My brother wants to amend his question.—A. No, sir.

Q. Did any such conduct as that occur?—A. No, sir.

Notary MANCOVITZ. Go ahead and answer Mr. Feeney.

Mr. FEENEY. I got the answer. He said, "No, sir."

Q. Mr. O'Connell later asked the following questions: "Q. Now, you stated that you were friendly with Mr. Lomasney down to the time that you voted for war. Explain what you mean by that.—A. When the question was brought into Congress that this country should go into the war, Mr. Lomasney asked me not to vote for it. When I returned, after voting for it, he said to me, 'You have done it.' I said, 'Yes, I did as I should do,' and then he told me that the mothers of the sons who would be called into the war would never forgive me, and that the men of the district would never vote for me again, for putting the country into war." Did any such conversation as that take place?—A. No, sir.

Q. The next question.—A. We had a conversation—

"Q. What did you say?" I am going to come to the conversation later on, but that is not the conversation which took place?—A. No, sir.

Q. The next question: "Q. What did you say?—A. I said I was willing to stand on my vote for my country, and I would stand voting for my country every time I stood in Congress." Did he every make any such answer as that?—A. No, sir.

Q. "Q. When did he say that he wouldn't support you again?—A. Having voted for war, right after that, when I voted for conscription, or the selective draft, he said that I could never go back to Congress." Did any such conversation as that take place?—A. No, sir.

Q. Now, Mr. Lomasney, I think I have called attention to the conversations which he alleges he had with you. Let me ask you: Mr. Tague has served in Congress substantially for the past four years, has he not?—A. Yes, sir.

Q. And Mr. Tague came from Charlestown?—A. Yes, sir.

Q. And prior to his election to that position, who was the Congressman?—A. Mr. Murray.

Q. William F. Murray?—A. Yes, sir; four years.

Q. And William F. Murray also lived in Charlestown?—A. He lived in Charlestown.

Q. Now, Mr. Lomasney, when Mr. Tague, in his first contest, became a candidate for Congress, you advocated his election, did you not?—A. Yes, sir.

Q. And at that time did he, directly or indirectly, in any way contribute to old ward 8 for any support or for the defraying of any of the expenses?—A. You mean financially?

Q. Yes.—A. No, sir. No man ever paid anything for the vote of ward 8.

Q. Now, then, Mr. Lomasney, will you please tell us what Mr. Tague said to you at that time relative to his candidacy for Congress, four years ago?—A. Four years ago?

Q. Yes.—A. Well, do you want me to go into the matter in my own way?

Q. You go into the matter in your own way, please.—A. We had a hot fight in that campaign. Mr. Callahan and Mr. Brophy—I think there were four or five other candidates before the papers were filed. Finally, Mr. Callahan and Mr. Brophy withdrew, which left, I believe, Mr. Tague, Mr. Niland, Mr. Keliher, and Mr. Brennan in the fight. It was quite a heated controversy. Mr. Tague in that campaign done just what he is doing now. I have his circular here in that campaign. The first charge he made in the circular was that John A. Keliher was substantially an illegal voter in the district. "Peter F. Tague, 15 Beacon Street," signed by his stamp. It says—he goes on to tell his story about Keliher. I won't encumber the record. First he said,

"Keliher, I want to remind you, first, he is not a bona fide resident of the district. He resides at 80 Rutland Street, in ward 12, entirely outside of the district."

Mr. FEENEY. Mr. Callahan, now find me Mr. Tague's testimony in that matter, so I can call his attention to it later on.

Q. Now, then, will you kindly tell us further what he said about being a candidate for reelection, should he be elected at that time?—A. That wasn't the whole of the conversation, if you want the conversation that took place.

Q. That is what I want you to tell us, all.—A. The contest was pretty hot—the same kind of a contest we had the last time, charges of fraud being passed one to the other, he saying Keliher was a carpet bagger, that he did not live in the district and was an illegal voter; and the other side charging illegal votes for him. The papers at the time—although I do not say everything in the newspapers is true—the paper story is there, if you want to read it. I have it in my scrap book and I will present you with it.

That was the situation. It was a pretty close contest. Mr. Brennan was a candidate from Charlestown; Tague was from Charlestown. Keliher was pretty strongly backed, and the question was who the people in our section of the city were going to support. Mr. Tague was very solicitous. He sent Mr. James E. Maguire, of East Boston, to me. He sent Michael J. Brophy, of East Boston, to me, and finally came himself to me. Everybody knew my position, which was I was opposed to Keliher; consequently every man was building up his own case in his own way.

Q. Now, Mr. Lomasney, will you just go a little bit slower for the stenographers?—A. I intended to.

Q. Mr. Tague finally came and saw you?—A. Yes, sir.

Q. All right. Now tell us the conversation then.—A. He said he was broke. He says "I am absolutely up against it, Martin. I do not know what I am going to do if I don't win this fight. I am broke, absolutely. I did not leave a \$10 bill in my house this morning. I want you to go through with me." I says, "You keep cool. I am going to lick Keliher. I am a good deal more interested about Keliher, in killing Keliher. I am sure he is going to be licked. He is going to be licked. You may rest assured I am going to do my best to lick him." He said, "If you will support me in this place, I do not care if I never go back. This will make me even with my creditors. It will give me money enough to get even, and I will be satisfied." We finally decided to support him.

Q. You did advocate his election from that time onward?—A. Yes, sir.

Q. And without the support of ward 8?—A. We had the ward 8 circular printed and circularized in ward 1. We had the ward 8 circular changed and made smaller to meet the suggestions. We printed circulars for two precincts of ward 11 that were at that time in the district.

Q. Mr. Tague—was Mr. Tague called upon in any way to assist in defraying the expense of that circularization?—A. Not a cent.

Q. Without the vote in ward 8 at that time would Mr. Tague have been elected or defeated?

Mr. O'CONNELL. Now, just one minute. I, at this time, want to interpose an objection, calling attention to this fact: This testimony along this line is all in connection with the testimony that was sought to be brought out under cross-examination by Mr. Callahan. It is matters we did not go into. It is far afield from the real issue, the real issue being the last primary and election held in 1918, and I want to object to this line of inquiry at the present time.

Mr. FEENEY. Now, Mr. Notary, pardon me.

Notary MANCOVITZ. Note the objection.

Mr. O'CONNELL. If you are going to overrule it, please say whether you are going to overrule it or not.

Mr. FEENEY. Mr. O'Connell went into this question himself, and at very great length; so, therefore, I insist in putting the question.

Mr. O'CONNELL. Now, just a minute——

Notary MANCOVITZ. Your objection is noted, Mr. O'Connell.

Mr. O'CONNELL. I just want to make this clear: Mr. Feeney was not present after the first half hour of the examination of Mr. Tague, and what I have stated is a fact, and if Mr. Feeney were present he would have known that it was a fact. It was brought out when Mr. Callahan had Mr. Tague under cross-examination.

Notary MANCOVITZ. Your rights were saved. Proceed, Mr. Feeney.

Mr. FEENEY. So that the record will stand clear, I insist that Mr. O'Connell did, as the official record shows, go into this matter thoroughly himself.

Q. Now, Mr. Lomasney, can you tell this board here whether, if Mr. Tague did not have the assistance of ward 8, he would be elected or defeated in that contest?—A. Well of course, I can tell you the figures. I am not going to blow our own horn. They always think that vote is very important before they get it, these politicians, and particularly these broken-down politicians. They are always anxious to get that vote, without money, and then after they get it, they often say it was of no consequence, but the figures—I will read you the figures if they are in any way illuminating.

Q. That will tell us.—A. You take the figures for wards 1, 2, 3, 4, 5, 6, 7, 8, 9, and two precincts from ward 11; they show John H. Keliher 5,168 votes. The same precincts show Mr. Tague received 5,076 votes, giving, outside of ward 8, 92 majority for Mr. Keliher.

Q. A 92 majority for Mr. Keliher, outside of ward 8?—A. Yes, sir. Without counting the votes for Mr. Tague or Mr. Keliher in ward 8, 92 majority for Keliher, the way I figure. Of course, you know, I am not an expert on figures, but I do not—this is in ward 8: Keliher 406, Tague 1,013. Subtract the vote of 406 from 1,013 gives a majority of 607. Subtract 92 from that, and that gives Tague 515 surplus.

Q. So that, Mr. Lomasney, I am not wrong in suggesting that if ward 8 had not supported Mr. Tague at that time, Mr. Tague would have been defeated for Congress?—A. Well, of course, you can draw your own conclusions.

Q. All right. Coming down to the second time that Mr. Tague became a candidate for Congress, did Mr. Tague come and see you at that time when he became a candidate for the second time?—A. You mean previous to these last primaries?

Q. Yes.—A. Yes, sir.

Q. Now, then, at that time had there been a change in the ward lines, in the meantime?—A. Oh, yes. We had new ward lines and we had new senatorial lines, new congressional lines, new representative districts were formed—the whole thing changed.

Q. In your own way, tell us what was said by Mr. Tague to you and by you to Mr. Tague at his conference with you when he sought your support at his second contest.—A. He came down and we had a conversation as to what we were going to do. There had been a redivision of the wards. This ward 5, what they called it old ward 8, was made 5, with several additions of the territory. We were then thrown into the senatorial district of Charlestown. We had a conversation as to what we were going to do. At the first time we had the conversation he said all he wanted was one term at this time, and on the question of what we were going to do, he suggested John I. Fitzgerald run for the Senate, and he run for the second term—that at the end of that term he would be perfectly satisfied to go out and fight for any man suggested by the ward 5 people for Congress.

And in that conversation, John I. Fitzgerald—we talked it over, and we agreed to the proposition, and in that contest, in making the fight in Charlestown, John I. Fitzgerald alluded to the fact that he would be a candidate for only two terms, that he was going to retire, that on the expiration of the second term he would not be a candidate; that we had the assurance of Mr. Tague that at the end of those two years he would not be a candidate.

Q. That is, at the end of the second period of two years, Mr. Tague would not be a candidate for Congress?—A. He came out and fought Mr. Green, signed circulars against Mr. Green and against Mr. McGrath—the other candidate in Charlestown—who took a very active part in nominating Mr. Fitzgerald for the Senate.

Q. And that Mr. Green was the Mr. Green who testified here the other day?—A. Yes, sir.

Q. Now, then, he was elected for the second time to Congress?—A. Unopposed.

Q. Yes, sir, unopposed?—A. Unopposed.

Q. And he did not only assure you, but it was publicly stated that he would not again be a candidate for Congress in that district?—A. I did not hear him publicly state it.

Q. It was publicly stated?

Mr. O'CONNELL. Just a minute.

A. I do not know what he publicly stated. He had that understanding with me, and I told the other members of the committee.

Q. Now, Mr. Lomasney, ward 8—A. It was no contract. It was a gentleman's agreement. It was his suggestion. That is the story—"Give it to me once more, and I will be with the ward 5 man two years from now."

Q. Now, had ward 8 ever had a Member of Congress?—A. No, sir.

Q. And was it your desire and the desire of other people down there that ward 8 should have some Representative in Congress?—A. Yes, sir.

Q. And did you discuss that matter with Mr. Tague when he became a candidate the second time, and when Mr. Fitzgerald became a candidate for the State senate?—A. Certainly. It was all gone into at that time.

Q. Now, then, Mr. Tague was elected to Congress for the second term, and during that term did you have conferences with him?—A. Certainly.

Q. Now, did you have a conference with him relative to what he should do, or did you make any suggestion to him as to what he ought to do upon the war situation?—A. Oh, I talked with him on the general situation. He used to come down with me nights, when he came to Boston—come to the room—and talked over the situation. We discussed all phases; yes, sir.

Q. Now, at that time, do you recall that Mr. Bryan had issued a statement which was published broadcast relative to the then existing situation?—A. That was, I think, around February, 1918; yes, sir.

Q. Have you got a copy of that statement of Mr. Bryan's with you?—A. I haven't it with me, but it is in the Globe, I think, of February 4, 1918—either 4th or 5th.

Q. 1917, was it?—A. No, sir. It was just before we declared war—about two months before we declared war, 1917. You are right, sir. Whatever the year was we declared war.

Q. Now, then, Mr. Lomasney, Mr. Tague has asserted here under oath that the only quarrel he ever had with you, and that the only time you showed any displeasure toward him was on account of his vote upon the war situation. I wish now you would kindly tell this commission just exactly what was said by you relative to that matter.—A. When I read William Jennings Bryan's statement, addressed to his countrymen—it was addressed to his countrymen—and it requested the people to write to their Representative in Congress—it referred to the war situation. It was around February, 1917. That is the year we declared war. It requested his countrymen to write to the Congressmen so that they would know the sentiment back home and not be swayed by the Washington atmosphere, and he said a lot of things that I substantially agreed with. I can't go into that very thoroughly, but they are in the paper of that date, and I may have them somewhere myself away in the scrap book. I keep some of those things. He said, "One sent now may save some measure of blood in the future." or something, so on reading that I wrote to Mr. Tague a letter.

Q. Can you tell us in substance what that letter was?—A. I think I wrote a letter saying, substantially, "After reading the"—of course, I can't repeat it word for word, but I said, "After reading a statement of Hon. William Jennings Bryan in to-day's Globe, I feel it my duty to state to you that in my opinion he is absolutely right in what he has stated there—that I trusted he would make no mistake," or something like that. Of course, I can't give you word for word. "I trusted he would make no mistake"—it was a very important matter, that he should not plunge this country into war on England's side. I know I used those words, I know I used those words, "on England's side." "To keep his eye on the ball, and that the plain people of the country were repeating Gen. Grant's 'Let us have peace,' more and more every day."

Now, I have given you, word for word, as well as I could, the language of Martin M. Lomasney.

Mr. FEENEY. I notice my friend going over some papers. Perhaps you have that letter, Mr. O'Connell, and wouldn't object to my putting it in now.

Mr. O'CONNELL. You may rest assured I have it. I will put it in at the proper time.

Mr. FEENEY. Very well, sir. As long as it goes in, that is all I care about.

Q. Now, Mr. Lomasney, did you also have a discussion with Mr. Tague relative to war and relative to what you believed his proper conduct to be in relation to Ireland?—A. Certainly. I talked with him after he came back. After this talk and before war was declared, I talked with him.

Q. What was said? Please go slowly so the stenographers will get the whole of it. What was said about that matter?—A. Well, he came back. We talked over the letter. I told him he had the opportunity of his life. I said, "It is up to you to stand up and be a true Representative of this great cosmo-

politan district. You have an opportunity that very few men have, if you have the courage and capacity to take advantage of it. Now," I said, "you saw me in St. Louis, when people thought I was crazy, trying to bring this question to the front regarding the independence of our fathers' and mothers' land. Before you ever vote for a declaration of war, stand right up in your seat in the House of Representatives and demand a statement from the officials who are representing the administration, what is England's attitude toward Ireland's independence? Don't wait until we get into war and win the war, and then be told that Ireland can take a back seat. Have a definite stand on that question. Now," I said, "if you will do that, you will make a reputation for yourself that nobody can realize what it means. You won't have to even care for anybody in this country, because you have done an act of justice for the land of your father and mother, and you will have the sympathy and sentiment of every true American citizen behind you"; and he shook hands with me, and he promised to do that, and he did not do it, and he told me he did not do it. When he came back he told me the reason he did not do it was because John D. Moore told him not to do it, and when I asked John D. Moore he told me he never told him so—if he said so, he was a liar.

Q. Now, Mr. Lomasney, when you suggested that he ought to offer some resolution in behalf of Ireland, at that time, did he shake hands with you and say that he would do that?—A. Yes, sir.

Q. And do you know that substantially that resolution, or one almost similar to it, was passed at the last day of Congress, March 4?—A. Well, I did not say a resolution. I said, "Demand from the administrative forces." If I had been in Congress, I would have asked the President, when he was making the address, "Mr. President, with all due respect to your exalted position, what is going to be the English attitude toward Ireland?" I told him those things. He suggested he would be a man and stand up. He did not do it.

Q. He agreed that he would do it?—A. Yes, sir.

Q. And shook hands with you upon it?—A. Yes, sir; and he quit on it.

Q. Now, Mr. Lomasney, when you wrote him a letter which my friend O'Connell has and says he will produce, did he write you an answer to that letter?—A. I think he did. Yes, sir; he did.

Q. Now, when he came back and told you that he did not offer—did not make a statement in Congress as you suggested, because of what Mr. Moore said, did you then tell him that he could not go back to Congress again?—A. No, sir.

Q. Did that have anything whatever to do with your opposition with his being a candidate for Congress?—A. It satisfied me in my mind that he was an unfit Representative; that he had no courage. I believe that one of the cardinal principles of a Representative of the people is to represent the people without fear or favor, as he is a servant of the people. He admitted to me he quit. He gave us as the reason he quit that John D. Moore told him not to do it; that John D. Moore told him not to do it. John D. Moore told me he was a liar. Consequently I proved him to be a liar, because Mr. Moore would not tell an untruth about it.

Q. Now, Mr. Lomasney, later on did you hear of criticisms of Mr. Tague's conduct there with relation to the so-called pneumatic tube controversy?—A. Postmaster Murray was very bitter against him because of a charge he made that Mr. Murray had opened his mail, and when Mr. Murray went down and faced him before the committee in Congress he quit on that, face to face. When Mr. Murray went down there, he receded absolutely. He turned right about face. Mr. Murray was very anxious—

Mr. O'CONNELL. Now, may it please your honor, before this thing goes on, I suppose that conversations with other men are not at all admissible, and I want to enter my objection to this man making statements about what other men told him. I have allowed this to go on for the purpose of expediting the hearing, as much as I think is decent, but I do think the time has come when there should be a ruling from you as to whether or not questions of this kind are proper. I object to any further talk here or any further testimony based on the fact that somebody else told me so.

Mr. FEENEY. Mr. Chairman, during the twenty-odd days while Brother O'Connell was conducting this hearing, the record will show that he was continually offering in evidence and putting in evidence nothing but hearsay. In other words, the record shows that with the exception of the testimony of Peter F. Tague, that almost everything else that Mr. O'Connell put into this

case was hearsay, and coming from mighty questionable sources, also. And also, in addition to that, I will also suggest that nine-tenths of Mr. Tague's testimony was hearsay, as to what somebody told him at some place.

Notary MANCOVITZ. I might say this: Mr. O'Connell did introduce a lot of that testimony, but I am listening to this inquiry for Congress, and I believe they are entitled to receive the atmosphere of the district, and the evidence ought to go in. I will save your exception.

Mr. O'CONNELL. I hope they do get the atmosphere of this district. I pray that Congress may get the atmosphere of this district, but I want to make this observation, that because Mr. Feeney says that the testimony introduced by us was hearsay does not make it hearsay for one minute, and I can not, for a second, permit his statement to go unchallenged that we have used any hearsay evidence in the presentation of our case.

Notary MANCOVITZ. The evidence will speak for itself.

Mr. FEENEY. The record speaks for itself.

Q. Will you kindly tell this board, now, what the situation was with relation to Mr. Murray and Mr. Tague you were telling us about when Mr. O'Connell interrupted?—A. Mr. Murray—Mr. Tague charged in Washington that Mr. Murray had opened his mail, and Mr. Murray got very much incensed over it, and when this thing came around, he was urging me not to be with him, and he called my attention—he called to my attention the report of his mayoralty expenses.

Q. You mean Mr. Murray called your attention to the report of Mr. Tague—A. This [indicating] is a certified copy of the statement made on January 2, 1918, signed by William J. Doyle, city clerk, of Francis E. Heedy, a statement of the campaign expenses of Mr. Peter F. Tague, mayoralty campaign committee. In that statement it appears that Daniel F. Buckley contributed \$500.

Q. To Mr. Tague's campaign?—A. To Mr. Tague's campaign.

Q. (Continuing.) Expenses?—A. That M. L. Emerson contributed \$500, and William H. Ames contributed \$500.

Q. And Mr. Buckley was counsel for Mr. Ames, who was connected with the pneumatic tube, wasn't he?—A. Mr. Murray told me that Mr. Buckley was the counsel and Mr. Emerson was an official connected with it, and Mr. William H. Ames was also with it. They were all connected with it, too. He said to me, as Congressman, that Tague should never have permitted his campaign man to take that money. He said, "It is the first time in the district the first time in the history of the city we ever knew such a thing to be done, such a brazen violation of the law." He said, "If that was called to the attention of Congress, they would unseat him." I said, "I did not believe Tague did anything illegal when he first talked to me about it," and he brought me the paper and showed it to me.

Q. Mr. Murray brought the paper to you?—A. Mr. Murray brought me a statement.

Mr. O'CONNELL. I want to object to this line of testimony, coming from a dead man.

Mr. FEENEY. Go ahead. Note his objection.

Mr. O'CONNELL. I ask your ruling on it.

Notary MANCOVITZ. Your objection will be noted.

Q. Will you proceed, Mr. Lomasney, please?—A. He said that Mr. Tague would be unseated if that was produced in Congress, and he went over the matter with me. He said it would be just the same as if the Boston Elevated Railroad had a bill before the legislature and you were a member of it, or any other person was a member of it, and while it was pending you took \$1,500 from their officials. He says "You could be unseated and you could be indicted for it." and he said, "That he should not have any such man represent this district." I then said to Murray, "I will consider that," and I did consider it in finally reaching my decision.

Mr. FEENEY. Now, I offer this return in evidence.

(The return, dated Boston, January 2, 1918, is admitted in evidence and marked "Contestee's Exhibit No. 4.")

The WITNESS. Well, if I may—I do not know whether I ought to. I don't want to say anything improper but I want to call attention to this fact, that if James Mann, the Republican leader of the House of Representatives, was defeated for Speaker because someone presented him with a couple of steaks at the expense of the packers, what about the man or person who allows his

campaign manager to take \$1,500 from a corporation that is asking favors before Congress and attacking the integrity of the postmaster of the city, and of his own former townsman?

Q. Now, Mr. Lomasney, confining yourself to just that situation, let me ask you whether or not when the last—when it came around to about the time for the last nomination for Congress in that district, as to whether or not you had a discussion with Postmaster Murray relative to a candidate for Congress from that district?—A. Yes, sir.

Q. Now, then, Mr. Tague had assured you and had assured others in the district that he would not be a candidate again?—A. He assured me. I don't know about anybody else.

Q. Did Mr. Tague call and see you?—A. Yes, sir.

Q. (Continuing.) About that time?—A. No, sir. He called to see me about 10 days before the papers were filed. I had seen him in the interim, but we never talked about his candidacy until about 10 days before his papers were filed—some time the early part of August. I won't say specifically the date.

Q. Now, right there, Mr. Lomasney, he undertakes to say he saw you upon more than one occasion at your office relative to his candidacy. Did he see you more than once during the last campaign at your office?—A. No; he never saw me but once between the time of the primaries. I think I saw him once there after the 17th of June meeting, and he did not come near me until the first week of August, before the primaries, whatever the date the papers were filed, a week or 10 days or two weeks. I had only saw him once.

Q. You did not see him again after that meeting?—A. No, sir.

Q. Now, will you tell this board, please, what took place at that meeting?—A. He came down and said, "I came in to see what we are going to do on this thing." I said, "It is all up to you; keep your word to get out." He said, "It is pretty hard for me to do that," he said, "with every other Democrat running from this State. Of course," he says, "we had a little difference on that matter, but," he says, "I tried my best to be fair." I told him, "You haven't been fair; done anything substantial for our section of the district." I says, "The Jewish people are finding a lot of fault the way they are treated, the way they are treated up in the office, and there is some kicking among the Italian people," and I says, "Murray is particularly sore on you over that statement you made about him opening your mail." He said, "It was a very improper thing to do." I said, "Everybody I have seen around thinks you have had enough, and everybody thinks Charlestown as a district has had enough. Now," I said, "you made an absolute promise to quit two years ago, and now the proper thing for you to do is to quit. Of course," I said, "that is what I believe in doing—is keeping your word." He then went on to talk in relation to how he felt it would be a humiliation. I said, "I have no desire to humiliate you, but," I says, "it was your own doings. You have had four years, and it didn't cost you anything. Now," I says, "the time has come." I said, "I would like to see John I. go across—support John I."

Q. That is John I. Fitzgerald?—A. That is John I. Fitzgerald.

Q. He is the Senator from your district?—A. He was Senator, and various times from the time he had been in the Senate, his name had been spoken of. He said, "I won't support John I." "Well," I said, "Will you support anybody else?" He said, "No, I am going to run anyway." I said, "All right. If you are going to run anyway, that is your matter, but I feel a man should keep his word," and I reminded him of the situation. I reminded him of his condition when he first came down there, how he said he was up against it, etc. He, of course, informed me he was in better shape, and that he could get plenty of money for this—

Q. Better financial shape?—A. Better financial shape, and he says, "I think I can win, and I am going to go through."

Q. Now, Mr. Lomasney, did you also remind him at that time that Charlestown had had that nomination for the past eight years, and old ward 8 and part of ward 5 never had it?—A. Yes, sir. I told him, I says, "The understanding in Charlestown is that you will get out." I said, "John I. Fitzgerald talked that on the stump in Charlestown, he was only going to be there for two years, and that is the situation." He then asked me, "Who does Murray want?" I says, "He is sore on you. Now," I says, "he is a factor in this thing. He is so sore on you he will run himself if nobody else did. He is sore on you and a lot of people are sore on you," but he said he didn't find much of it. I says, "Oftentimes things happen, and a candidate

himself don't feel it," but I told him the feeling down in this section. "I am not talking for anywhere else." He then asked me what the talk was in the papers about Fitzgerald. I said, "I do not know. There is some effort being made to nominate Fitzgerald, but I do not know whether he will run or not."

Q. It was subsequent to that time you did have a talk with John F. Fitzgerald about it?—A. I didn't have any talk with John F. Fitzgerald until after that.

Q. You did not have a talk with John F. Fitzgerald until after that. That is what I am coming to. Now, will you tell us what was it that induced you, or led you, to talk with John F. Fitzgerald about John F. Fitzgerald being a candidate for this position?—A. His name has been mentioned in connection with the Worcester district, and, of course, I recognized when I poked around that Mr. Tague had the backing of some strong financial interests here, and you had to have a man large enough to meet him. He had grown some in Congress. He had been there four years, and it wouldn't do to run an ordinary man or a man just running out of the legislature or senate, because it was a period that there had to be an intelligent discussion. He could wear an American flag around his body and declare, "I am with the President," and, of course, under the law people had to be cautious, and it was necessary to get a man whose name stood for something, and, of course, Fitzgerald had been operating all through the State talking.

Q. You are speaking of John F. Fitzgerald?—A. I am speaking of John F. Fitzgerald talking on these different questions and giving his time all through these different parts of the war program; he was a former mayor of Boston, a former Member of Congress, he was talking on this port of Boston, and to my mind, with all his faults—and I have criticized him as much as anybody—I feel if he had been there when this man was there, he would have risen to the occasion, but when you come to size the two men up, the question was whether we were going to lay down in silence and take the man who was a grafter—by his own statement, because Heedy reports showed they were taking money from a corporation—are you going to take a man who wouldn't keep his word, a man who had proved himself a quitter, that you were going to take a chance on, or going to give the district a man of size who would stand up for the people? I talked with John F. Fitzgerald that I laid down on Tague, and he finally accepted the proposition to run.

Q. You did urge John F. Fitzgerald to be a candidate for this position?—A. Mr. Murray and myself cooperated to get Mr. Fitzgerald to run.

Q. Now, then, sir, John F. Fitzgerald's campaign from that time up to the time when there was an election, when Mr. Fitzgerald was declared elected and when by recount he was again declared elected, Mr. Tague, through his counsel, sought the assistance of the ballot law commissioners at some time?—A. Yes, sir. There was a hearing before it.

Q. Now, from the time of election day during the counts and recounts at the primaries, during the recount of the votes at election at city hall, did you take any part whatever?—A. No, sir.

Q. In those matters?—A. No, sir. I wasn't around city hall at the recount or anything of the kind.

Q. Now, then, finally, when the matter got up before the ballot-law commission, Mr. Tague has rather geographically described what occurred up there. Will you tell us what occurred up there at the ballot-law commission, in your own way?—A. Of course, I don't want to take up the time of the counsel—

Q. They have taken nearly 30 days. We want to have a reasonable time.—A. I was present at the hearings, and, of course, I read the law, and I did not think they had any right to open the hearing at all, because the card stated, in accordance with the statute, when the hearings closed, that I was present at the hearing and saw what took place and heard the arguments of Mr. O'Connell, before the commission, and, of course, I made up my mind that they were going to open the case, and I was present when they opened the case, and I think I was present—I don't want to be sure, I may have been away a little mite, but I think I was there pretty near all the time. I think very near all the time.

Q. Let me ask you, Mr. Lomasney, if it was your viewpoint that under the law the ballot-law commission had no right to proceed?—A. Yes, sir. There is a card given out by the secretary of state's office that shows the dates. I haven't got one with me, but that card shows the dates the objections must be filed, and this was filed after that date—after that time.

Q. Now, then, although it was your contention that under the law they had no right to proceed with that hearing, did John F. Fitzgerald insist that they should proceed, saying that if he wasn't nominated, he did not want to go to Congress?—A. Well; do you want me to tell the whole story about that?

Q. Yes.—A. Because I believe when I am in a fight, of fighting in accordance with the law, and I do not believe in any statement about it. Stand on the law and live within it. When we had the hearings before the ballot-law commission, I made up my mind that the commission was going to open up the case, and I wanted to bring in a writ of prohibition, because I believed they had no right to open up the case—I believe they wanted to open up the case. I went down to see Henry F. Hurlburt to have him bring in a writ of prohibition, and Mr. Hurlburt suggested it was a very important matter, after going over the law, that I ought to consider Mr. Fitzgerald's interest, and he asked me if I talked with Mr. Fitzgerald about it. I said, "No; this is not a matter of Mr. Fitzgerald altogether." I says, "There are other things to be considered, and I think they are going to open up the case." He said, "I think you should talk with Mr. Fitzgerald. If you want to engage me to bring in a writ of prohibition, I will do it, but I suggest, for your own self, you should talk with him about it before you do so, because you might be put in the position, if you start this thing, of getting in bad repute." I talked with Mr. Fitzgerald. I wanted to bring in a writ of prohibition to restrain the ballot-law commission from hearing this case—from opening this case because, under the section—you will find it in the ballot law—then they will be acting beyond their jurisdiction, and I believed that the ballot-law commission had no right to suspend the statute, no matter what they thought of it. I believe the court would take that viewpoint, but Mr. Fitzgerald said he did not want me—John F. Fitzgerald said he did not want me to do anything of the kind. He said he wanted them to be given a full and fair hearing, if he did not have a majority of the votes cast, he did not want the nomination, and I went and abandoned the proposition of the writ of prohibition.

Q. Then you did nothing further toward beginning the writ of prohibition to prevent the board from proceeding?—A. No; I did not; I stopped.

Q. Now, then, the board did proceed with its examination up here?—A. Yes, sir.

Q. Now, then, Mr. Lomasney, the board issued subpoenas for certain people to come before the board, did it not?—A. They said they did. I do not know anything about it. There was certain talk made there. I did not see any subpoenas there. There was certain talk there.

Q. At some time did the board make a request for all parties to aid the board to locate certain witnesses?—A. Well, the hearing was a pretty bitter hearing. There was intense feeling developed; and, of course, when the hearing was going on, there was no mixing of parties, as you would find ordinarily, because there was a line struck—a line here and there—and, of course, there was feeling during the hearing. There was some talk about summoning witnesses, and they tried to show a list of witnesses, and Mr. Albers tried to see the list of witnesses, and I was sitting behind Mr. Albers, who sat reading them. I think Mr. Mancovitz was there. I started to see who they were they said they could not find. There was a great deal of talking going on, and at one time, at the end of the night, the board came in and they made a statement. Mr. Cunningham said that they had been—now, I can't give you word for word the statement, because you have the stenographer's report—it was in substance this: There had been a great many summonses issued, and they had not been able to find the persons whose addresses were given by the persons requesting the summonses. He said it was a very important matter. He said that he would invite the cooperation of all parties to see if they could not get the witnesses in to clean the matter up, as it ought to be cleaned up, and he was very nice about it. He put it in such a way that a man had to realize the question that whatever he may have thought in the beginning, realize that they were in a position where they were anxious now to have everybody cooperate. The result was—

Q. Let me stop you right there.—A. Yes.

Q. Before Mr. Cunningham had asked for the cooperation of the various parties, did my distinguished friend, Mr. O'Connell, here, say that the reason the witnesses did not come was because the witnesses did not exist?—A. Well, there was a lot said. There was some sort of row. I do not remember word for word. I do not remember what was said.

Q. Was it in substance that?—A. I don't want to do Mr. O'Connell an injustice. I don't remember word for word, particularly when I am sore on a man and he is sore on me. I don't like to say anything that isn't true. I don't want to say, word for word, what he said. I know we had several run-ins there, and I know we were up against it. We were pretty hot, the both of us, and what took place I am not going to say, because you have the records, and pay for the records and read them.

Q. As the result of the request for cooperation, Mr. Lomasney, did you aid the commission? Did you do everything in your power in order to bring witnesses there?—A. Well, when they made that statement, I arose and addressed the commission, I think, and I stated to the commission: "Now, I am going to give the best I can to it." I said: "I want to call the attention of the commission to the fact that these gentlemen, who are crying 'fraud' here, are the only ones who committed fraud that I have seen up to date." I said: "They have taken—Mr. Kane has taken from the office of the election commissioners, the certified copy of the check lists—the office copy of the check lists." And I said: "Nobody has been able since to get from the board of election commissioners a certified copy of the check list. A certified copy of the check list shows you, I presume you know it, who voted on that day. Now," I said, "of course, nothing can be done until we know who voted, because we want to know where we are at." I said: "If you want compliance with your request, I ask that this board make an order giving the election commissioners authority to break the seals and give us a certified copy of the check lists, as requested in our petition the day after election." It was the first copy filed—the first request filed. The board finally made that order. I then requested that they direct the sergeant at arms to give us a list of the persons that they could not find on the summonses, and they made such an order, and they directed me to go to the sergeant at arms to request that, which I did, and I went to the sergeant at arms and made such a request, and he gave me a lot of names, some of the ward 6 names and a lot of other names and some ward 5 names.

Q. Now, then, after that, what did you do?—A. We then started in to work to try to reach these men.

Q. You mean by "we" who?—A. Well, the organization—different members.

Q. What did you do?—A. We called in the men from the South End—some men—and said, "Look up these people. Who are these people; who are these people, through the different sections," and finally produced these men.

Q. And you produced those witnesses up before the ballot law commission?—A. Yes, sir.

Q. Was the attention of the ballot law commission directed to the names, to the size, the apparent age and the apparent weight of these men?—A. The ballot law commission then—we took, we had at that day of the hearing—I am not sure whether it was Monday; I think it was Monday or Tuesday we had the hearing before it—the day of the opening of the hearing; I wouldn't swear and say that. The men were there. And I addressed the commission and we proceeded to start to ask them in. We had some controversy, Mr. O'Connell and myself and Mr. Albers, and they all joined in the controversy, and finally the ballot law commission proceeded to get—conduct the examinations themselves, and they took the police list—I call it—the descriptive list—not the ordinary voting list we have in public, you know. They have a descriptive list that gives a man's height and everything of that kind, and they had that list, and they called them in and asked them some questions. I forget the form of the questions they asked them. They sized them up, and Mr. Tague was behind them substantially a good part of the time, and I think counsel was around seeing that the men—there was some controversy over producing a registration card. Of course, I think I objected to that, because there were 40 or 50 men, and if there was one man—there was a lot of feeling at the time—and if there was one man there who slipped and left his registration card at home, the feeling was so high they would probably arrest the man. I objected to that, and they finally handled that—the commission started to ask a man certain questions, and while they were doing that they sized the man up to see if in their opinion he met the requirements of the matter. I do not think there was any serious challenge made to the man not complying with the requirements.

Q. They were pretty well identified by the list?—A. There was one or two—there may be four or five, because of some little technical detail, and they allowed a little latitude on the matter. I forget now—several cases, but there were one or two cases. There was a general feeling, I think,

amongst themselves, the list, as they saw it, was all right, and they preserved their rights, because they looked at that that that list was the question.

Q. Now, Mr. Lomasney, did you ever do anything, directly or indirectly, to keep any of those witnesses from attending that board up to the time that your cooperation was asked for?—A. No, sir.

Q. Now, Mr. Lomasney, I want to direct your attention—I do not know whether you are familiar with the situation or not—but I will find out. I want to direct your attention to the method adopted for summoning in witnesses before cooperation was asked by Mr. Cunningham by the board. Do you know whether or not summonses would be issued by the sergeant at arms or by somebody in authority, say, as of about 11 o'clock, for a witness to appear "forthwith," or appear at 2 o'clock the same day?—A. Well sir, I did not see any summonses, so I could not swear to it.

Q. You do not know that that was the situation?—A. I do not know, sir.

Q. Now the question was asked of Mr. Tague the other day—without my spending time to find that question, I am going to try and ask you the same question. Would you describe, please, ward 5? I mean by that, describe ward 5, so far as its people, so far as its buildings, so far as their living is concerned.—A. Well, ward 5, as now constituted, is—of course, covers the large business district in Boston. It takes in, also, all the large hotels in the downtown section. It takes in some of the large institutions—the jail, the Massachusetts General Hospital, this building and city hall. It runs, in all, with the ward 6. I do not know the line.

Q. I want to get it in the record.—A. Well, starting on the corner of Cambridge, Charles River, and coming up Cambridge Street to Bowdoin, come up Bowdoin down as far as Beacon, cross Beacon to Park, down Park to Tremont, up Tremont to the bridge. Then cross over to the water—that way to the water and strike the channel. Come around the channel, up Cambridge Street again. That is the ward lines that were adopted a few years ago. It has, as I said, a large section of the business houses, the large hotels, a great many lodging houses, a great many nationalities, and a great many diversified interests and different classes of people. We have the very rich, and also the very poor. We have the Chinese in the South End. We have the Italians in one section, substantially altogether. We have the Jewish people in another section together. It is a great cosmopolitan section.

Q. Is the city about contained in that district?—A. Yes. It contains all the historic places of the old days of the Revolution. It contains Bunker Hill Monument, it contains the Old South Church, the Old State House, Faneuil Hall, and where the tea was thrown overboard, and the navy yard, and all those different places.

Q. The inhabitants of the district are largely———A. So as I won't forget it, it also contains the spot where we had the old Franklin Street Cathedral, down at old Fort Hill.

Q. Its population is largely cosmopolitan, is it not?—A. Yes, sir. I think, very. I do not know this of myself, but they told me at the time they had the draft—I forget how many nationalities. They said every nationality, substantially, recognized, was—Armenians, and everything else.

Q. It is a district where you will find a class of people who call it their old home, born and bred and lived there all their lives, and there are others who live there only for short periods of time?—A. We find in this district there are certain men come into this district without a nickel, from across the water in Russia, and they go out and become worth a couple of hundred thousand. It is a clearing house for the Jewish people, just as Fort Hill district was a clearing house for the Irish in their day. It covers all the classes of the community. You will find a poor fellow who hasn't enough for a bed and also find the millionaire in the community, in the confines of that district, in my opinion.

Q. Now is it true that in that district people frequently change their domicile?—A. They certainly do.

Q. And frequently move from place to place?—A. Why some of them gentlemen down there they sleep tonight in a place and they may, some of them, be on the trucks the next night for Chicago—never can tell, but Boston they claim their home.

Q. It is also true that some of the real highbrows claim that as their legal residence?—A. Why, certainly, certainly. You go to the City Club and you will find some very distinguished men in Boston whose homes are elsewhere,

voting from the City Club, and I guess they don't allow women there over night, so they can't bring their wives.

Q. Mr. Lomasney. I asked you this morning, if, in answer to a letter which you wrote to Mr. Tague relating to Mr. Bryan's speech, whether or not he made a reply, and you said "Yes." I am going to ask you to produce at some later time that letter, and if you have any other letters from Mr. Tague, while he was in Congress, I would like to have them.

(Five-minute recess.)

Mr. FEENEY (to Mr. Harrington). Won't you have Mr. O'Connell come in, please?

Mr. HARRINGTON. I supposed he was out in the corridor, but we don't know where he is, exactly, now, Mr. Feeney. He will be here presently.

Q. Mr. Lomasney, did you receive from the election commission this instrument properly attested and certified [handing to witness]?—A. Yes, sir, I did.

Q. Will you and have you made——

Mr. O'CONNELL. Will you let me look at it?

Mr. FEENEY. Certainly. [Handing paper to Mr. O'Connell.]

Q. Have you made an analysis of the figures contained in that instrument? Now, something—not something, but very much—has been said about colonization in ward 5, and so forth. I will ask you to read into the record that document, please.—A. Let Mr. Brogna read that. My throat is in bad shape.

Mr. BROGDA (reading). The official seal of the city of Boston is on the document first.

BOARD OF ELECTION COMMISSIONERS,
CITY HALL ANNEX,
Court Square, Boston, February 20, 1919.

HON. MARTIN M. LOMASNEY,
Boston, Mass.

DEAR SIR: In compliance with your request for the number of male persons police listed, the number of registered voters on the first printed voting list and the number of registered voters on the voting list on the State primary, September 24, 1918, and the State election, November 5, 1918, in the tenth congressional district, comprising the first six wards of Boston, we beg to submit to you the following figures:

Police list, ward 1, 7,185. Registered voters, first list, 3,879; registered voters, primary, 4,013; registered voters, State election, 4,124.

Ward 2, police list, 10,395. Registered voters, first list, 3,010; registered voters, primary, 3,205; registered voters, State election, 3,293.

Ward 3, police list, 5,457. Registered voters, first list, 2,945; registered voters primary, 3,076; registered voters, State election, 3,158.

Ward 4, police list, 5,134. Registered voters, first list, 2,744; registered voters, primary list, 2,974; registered voters, State election, 3,050.

Ward 5, police list, 22,481. Registered voters, first list, 4,072; registered voters, primary, 4,719; registered voters, State election, 4,836.

Ward 6, police list, 12,122. Registered voters, first list, 4,237; registered voters, 3,237; registered voters, primary, 3,598; registered voters, State election, 3,761.

Totals, police list, 62,774. Total registered voters on first list, 19,887; total registered voters, primary list, 21,585; total registered voters, State election, 22,222.

Respectfully,

BOARD OF ELECTION COMMISSIONERS,
MELANCTHON W. BURLIN, *Chairman*.

True copy, attest,

FREDERICK A. FINIGAN, *Secretary*.

Q. Now, Mr. Lomasney, from these figures it appears that there were residing in ward 5, 22,481 males.

Notary MANCOVITZ. Over 21 years of age.

Q. It shows that 4,072 of that number were registered voters on the first list—so-called. It shows that 4,719 were registered voters at the primary election, and it shows that there were 4,836 of that 22,481 persons registered at the State election. Now, then, let me call your attention, if I may, please, to some figures here [indicating]. According to the report, to this certified document from city hall, there were in ward 1, 7,183 male persons over the age of 20, and that there were registered voters in ward 1, 4,013, or 55.8 per cent at the primaries, and that at the State election there were 57.5 per cent of the male list registered voters. Comparing that with ward 2, we find that in ward 2

there were 30 per cent of the male voters registered at the primary. There were 31 per cent registered at the State election. In ward 3, there was a total of 5,456 male persons. There were 3,076 registered voters, or 56.4 per cent at the primary, and 57 per cent at the State election. In ward 4, there were 5,134 male persons. There were 2,974 registered voters at the first list, making 57 per cent who were authorized to vote at the primaries and 59 per cent at the election. Now, comparing it with ward 5, we find this: That there was a male list of 22,470; that there were on the first list only 4,719 registered voters; that there were only 21 per cent of the male list in that ward eligible to vote at the primary, and only 21.5 per cent eligible to vote at the city election. In ward 6, the total male vote was 12,191. The registered voters authorized by that list number 3,598, or 29.6 per cent at the primaries and 31 per cent at the State election. So that it shows clearly, does it not, that of the number of males that were located in those respective wards, by much the smaller proportion voted in ward 5 than in any of the other wards?—A. Yes, sir.

Q. Or had the right to vote?—A. If those figures are correct and percentages. Of course, I didn't do that myself. I had it done. If those percentages are correct. I did not do it myself.

Q. Now, then, Mr. Lomasney, a great deal of time has been spent both here and at the statehouse about colonization and all that sort of thing. Will you please tell us—will you describe the tenement district, the lodging-house district in ward 5 and tell us what you know of colonization in that congressional district?—A. Mr. Chairman, if I may proceed in my own way?

Q. Go ahead.—A. As I understand this law of domicile, it is a very close question as to what is a man's domicile. The Supreme Court in the old days—the question of a man's domicile was determined by where his poll tax was assessed. The poll tax has been abolished as a prerequisite for voting. Consequently, the only thing in the statute is where does a man reside on April 1, as our law provides in Boston. Now, that is a very close question. Repeatedly the Supreme Court has stated so. You have to consider, in talking about a man's domicile, one, two, three, four, or five phases of it. A man has a right—an inherent right—to a domicile. A man can have one domicile, one vote. He can have all the residences he wants, but he must have one domicile, and a man has the right to elect his domicile. The question whether or not that is a domicile for taxation or voting purposes, is a very intricate one. It requires a great deal of investigation to determine it, and, as the Supreme Court has said—I have read the question many times—what settles one case, it might not settle another case. There is a great question; for instance, now, we find Mr. Tague, himself; he has in his house at 21 Monument Square, a Patrick F. Goggins, who was a captain of our fire department, who has voted from his house for five years. He made a statement the other day positively here, and he assured this commission under oath—because he was under oath—he assured this commission positively that man never voted from his house, but the records at the election commissioners show that he voted every year on every election.

Mr. O'CONNELL. It isn't right to allow a statement like that go, as you make your statement. He made no such statement.

Mr. FEENEY. I beg your pardon.

Mr. O'CONNELL. He made a statement he did not vote last year.

Mr. FEENEY. He did not. He said the last four years.

Mr. O'CONNELL. I heard it; I know what he said. You weren't here.

Mr. FEENEY. He said the last four years. I offer in evidence this question that was put to Mr. Tague, this series of questions:

“Q. At the time of the last primary and election, did anybody else live there, namely, your home?—A. Yes; Capt. Goggins. He had a room there.

“Q. Who is he?—A. Not at the time of the election.

“Q. At the time of the primary?—A. No.

“Q. At any rate, he was a registered voter there?—A. Yes; for the last four years.

“Q. For the last four years?—A. Five years.

“Q. But he never voted from there?”

Mr. O'CONNELL. That is a different story.

Mr. FEENEY. Pardon me.

“He never voted from there?—A. He never voted from there.

“Q. For the last five years?”

The WITNESS. I ask that you read the records further. You will see the word “Yes, positively.” Read the words. I read the records.

Mr. O'CONNELL. Read the records?

Mr. FEENEY. Yes; you are absolutely right, Mr. Lomasney.

The WITNESS. I have been reading the records.

Mr. FEENEY. You have an absolute right to read the records.

"Q. Did he use the right to vote from your house?—A. Never.

"Q. So that in the last four years he has not voted at all?—A. No, sir.

"Q. Are you sure of that?—A. Positively."

Mr. FEENEY. How do you like that, Mr. O'Connell?

Mr. O'CONNELL. That is the real situation.

Mr. FEENEY. That is the real situation? It wasn't the last primary, was it?

Mr. O'CONNELL. Yes; it was the last. You will find it in another place.

Mr. FEENEY. I have found it.

Mr. O'CONNELL. Keep on reading.

Mr. FEENEY. I am going to put something else in when I get to it—a question by me.

Mr. O'CONNELL. Put it all in while you are at it.

Q. Take the question to Mr. Tague relative to Capt. Goggins:

"Q. Do you know whether or not he has any children?—A. I do not know anything about it.

"Q. You know he has a wife?—A. I presume he has one.

"Q. You presume he has one?—A. I do not know anything about that."

A man who lived in his house five years. Now, let us have the election return, the election card there. Does it show that he did vote from the house during the last four years?—A. When I read that statement, I went up to the board of election commissioners, and they informed me there about it on this card. You can summons the election commissioners and put them under oath, and they will back me, and certify, show by this card, that he voted in the State and city elections in 1914, 1915, 1916, and 1917. Now, I simply mentioned that as I was going along as an instance. Now, here is a man——

Mr. O'CONNELL. Did you say anything about 1918?

The WITNESS. No.

Mr. O'CONNELL. Then I object to the introduction if this has nothing to do with the year 1918.

Notary MANCOVITZ. Your objection is noted.

Mr. O'CONNELL. And I insist it has no place in this record, what Mr. Goggins may have done at other years.

Notary MANCOVITZ. Your objection is noted.

Mr. FEENEY. It affects the credibility of Mr. Tague, who said he never voted from there.

Mr. O'CONNELL. No; it doesn't.

Mr. FEENEY. Yes; it does.

Mr. O'CONNELL. Mr. Tague's credibility is established by the rest of the record, which you haven't read.

The WITNESS. Here is a case, we will say, of a man who has a decent respectable home and who turns it over to a man to use as a domicile. Under the law, if he is not present when the police are taking the census, his wife, his daughter, or the servant, whoever is in the house, must present that man's name. Now, everybody knows that that man did not sleep there on the 1st day of April—that he was a mattress voter. He has a respectable family in Somerville. They live there, and their name is in the directory in Somerville. His name and his wife's name appear in the directory of 1918 in Somerville. Now, that is unquestioned. Now, we find here a man, talking throughout this city, posing as a hero and a purifier of the voting lists.

Mr. O'CONNELL. I object to this.

Notary MANCOVITZ. Note the objection.

Mr. O'CONNELL. Wait, until you hear the objection. My objection is that this witness was asked a question with reference to the law of domicile, as he understood it.

Mr. FEENEY. He is giving it.

Mr. O'CONNELL. He is going on to talk about something else that has nothing to do at all with the question; and I ask that he be reminded he was asked a question and he should give an answer to that question.

The WITNESS. If Mr. O'Connell will restrain himself——

Mr. FEENEY. I didn't do any such thing. I called the witness's attention to the talk which Mr. O'Connell and Mr. Tague made upon the question of colonization, and the witness is within his rights.

Notary MANCOVITZ. A proper question, and a proper answer. Witness, proceed.

Mr. FEENEY. Proceed, Mr. Lomasney.

Mr. O'CONNELL. I ask that the witness be told to answer the question and not to make statements on extraneous subjects.

The WITNESS. I will connect this question, and I will convict him right here of either being in this position: Of having, and I respect the lady, having her stand up and say she gave the name to the police, which is a cowardly thing for a man to do, or else admit he gave the name himself. Now, what is the story?

Mr. O'CONNELL. Mr. Notary, I insist that this man be told that he was asked a question, and that he isn't here to make attacks when he is asked a question, he must answer.

Notary MANCOVITZ. He is answering the question in his own way.

Mr. O'CONNELL. That isn't answering the question, because he is attacking Mr. Tague. The question was asked for his understanding of the law of domicile and the law of registration.

Mr. FEENEY. Not at all. Proceed.

The WITNESS. I am applying the law of domicile to his own house. Let me tell you, sir, there is a well-established rule of equity that one, who is coming into court like that, must have clean hands.

Q. Now, we have got you.—A. And what about this political grafter, who puts a voter in his own house? Puts him in his own house. What for? Certainly, for the purpose of having him vote, and he had him vote there. Now, what is the situation? He goes throughout the city and he says: "I believe in an honest voting list." And he has a crooked voter in his own house. What standing would a man have?

Mr. O'CONNELL. Mr. Notary, I ask that all be stricken out of the record as not being responsive to the question.

The WITNESS. What standing? I am connecting this with your law of domicile, and I have seen lawyers before who could not see a legal connection, because they can't see how you must join facts, and apply law to facts, and then you have sound common sense.

Now, that is just the situation in this case. Here is a man who was standing up before this city, and I proved by my statement of what he done in the city election, and I can prove further, if he wants it, as I stated in the State House, what he is. I told him in the State House, in front of the commission, that I had a letter in my pocket, if he wanted me to read it—a man who wanted everybody sent to jail, and sent everybody to jail—that would make him hustle to keep out of jail before any court in this Commonwealth. He did not ask me to read it. Not on your life.

Now, the law of domicile, it is a close question. Thomas W. Lawson has three domiciles, three homes, one in Egypt, one in Winchester, and one on Bay State Road. He was taxed in Winchester, but voted in Egypt. He elected Egypt as his domicile, and the court has recently decided that the taxes he paid in Winchester were not properly collected, and they had to return them back, because he elected his domicile. That is applied to the rich man. The same question comes down to the poor man.

A man can acquire a domicile only when he abandons—a new domicile when he abandons the former one. That is a great question of intention, and what is his intention and what does he do is a matter to establish—is a matter of fact to establish—his intention. That requires minute study of facts. You could introduce as testimony a police officer who would testify that he saw that man going into that house at a certain time at night and leaving it at a certain time in the morning, coming about around the 1st of April. It is a broad general question and it all comes down to the question of fact, what has he done and what is his real domicile? Those are peculiar questions of fact, and you have got to apply the law to those questions of fact. Now, a man can have but one domicile, one vote, and it is a very complicated question, and there are many men, some of these men who are preaching the loudest have done it themselves.

Q. You wouldn't suggest that my good friend, Brother O'Connell, ever did that?—A. I don't suggest nothing about him.

Q. You wouldn't suggest he did it over in my ward when he lived in Brookline?

Mr. O'CONNELL. I live in ward 25, precinct 5.

The WITNESS. I am not going to make any suggestions. I am dealing with Mr. Tague. I am not dealing with Mr. O'Connell. He is counsel here within

his rights. Now, here is a man who four years ago proceeded to charge the candidate at that time with not—with having not a right to be in the district and at that very time he had Patrick F.—not Patrick H. Goggins. You realize, if you read the record, he did not know the man's name. He said "Patrick H." He said Patrick H., and didn't know the man's name. He didn't know whether he had children or not, he did not know how often he stayed there, and that is how he would have you believe he conducts that decent, respectable home of his. He allowed a man in there, and he did not know what his name was, don't know how many children he had. He is in Washington. Why, of course, that must fall as ridiculous.

Now, according to this check list, Mr. Goggins voted for him here, voted that day.

Mr. O'CONNELL. Again I must call your attention to the fact that this witness is wandering far afield and isn't answering the question that was asked him. Now, he is old enough to know better, and he is wise enough to know what he is doing, and I insist——

Notary MANCOVITZ. Note his objection and proceed.

Mr. O'CONNELL. Your desire for an orderly procedure ought to be lived up to by this witness, and an admonition from you that he answer only the questions that are asked him——

Mr. FEENEY. Why don't you admonish him?

Mr. O'CONNELL. Might contribute a little to an orderly proceeding. I ask that my objection be noted.

Notary MANCOVITZ. Noted.

Mr. O'CONNELL. And that his rambling on and renewed attacks on Mr. Tague or anybody that may have voted from his house be discontinued.

Mr. FEENEY. I do not think the witness rambled half as far, because Mr. Goggins only came from Somerville to Charlestown, whereas my brother went from Dorchester way out to Brookline.

Mr. O'CONNELL. Mr. Callahan and myself aren't in Brookline.

Mr. FEENEY. You are both in the same box. I voted for you when you lived in Brookline. What more do you want?

Mr. O'CONNELL. We started out—we voted in ward 25, precinct 5.

Mr. FEENEY. Recently?

Mr. O'CONNELL. Recently.

Mr. FEENEY. Recently? You reformed, old boy.

Mr. O'CONNELL. No reformation in that.

Mr. FEENEY. You lived out in Brookline four years, Mister, and you voted in the ward where I live, in Dorchester.

Mr. O'CONNELL. How do you know it?

Mr. FEENEY. I voted for you at the constitutional convention. That is how I know.

Mr. O'CONNELL. Wouldn't it be better for you to say you know you voted for me there? You never saw me vote over there, did you?

Mr. FEENEY. I know I voted for you over there. You were a candidate over there in that district.

Mr. O'CONNELL. Because I knew I would have the support of men like yourself.

Mr. FEENEY. Do you mean to say you did not vote for yourself?

Mr. O'CONNELL. Absolutely.

Mr. FEENEY. Do you mean to say you did not vote for yourself on that day?

Mr. O'CONNELL. Yes.

Mr. FEENEY. I am going to bring in the check lists and show you voted.

Mr. O'CONNELL. All right, you bring it in.

Mr. FEENEY. I will bring it in.

Notary MANCOVITZ. Proceed, Mr. O'Connell.

Mr. FEENEY. Go ahead.

The WITNESS. You see, when you stick this in, it strikes certain spots, doesn't it?

Mr. FEENEY. It hurts.

The WITNESS. I did not appreciate my Brother O'Connell was in the position he was in. I did not appreciate that he had done that, and I can understand why he was so apprehensive about this, but that is always the way. But I do not mean him, but I have no use for a man who is a candidate for office and hypocrite enough to talk about and trying to go in and invade a poor man's

home and bring his wife in here. He is a hypocrite who brings his wife in. We have had contests in this district, but they were confined to men and not to women. He is a hypocrite with a mattress voter in his own house to go out and seize or try to seize some other man's wife and subpoena her in here and then extract from her on the stand something about her husband's residence which may cause people not to come from fear of telling something affecting their domestic relations and their family matters, and a man who is hypocrite enough to do that upon the plea that he is fighting for a pure ballot and carrying a crooked mattress voter in his own house, it seems to me answers the question. He hasn't clean hands, and in any court of equity would be turned out of court.

Mr. O'CONNELL. Mr. Notary, I ask that all be stricken from the record.

Notary MANCOVITZ. Note Mr. O'Connell's objection. Proceed.

Q. Mr. Lomasney, I think I have called your attention to all the things which I deem of importance contained in the record as of statements made by Mr. Tague. Is there anything further which you desire to say here relative to this contest?—A. I do not. I will answer any questions.

Q. Is there anything further which you have to suggest? Will you describe the lodging-house district, the lodging houses down in your district there?—A. We have a large number of these lodging houses, as they are all over the country. That have—I think they are called Dorr's Hotel. You will find—if you will let me look at that precinct book. [Book handed to witness by Mr. Harrington.]

Mr. HARRINGTON. There is nobody registered from there.

The WITNESS. I was going to tell you—you will find here up in precinct 10 or 11 on Pine Street, I think it is——

Mr. O'CONNELL. Why don't you go down to one of the districts you know more about?

The WITNESS. I knew more about your district than you did, and I told you so when you were down in my room one night.

Mr. FEENEY. I told you you would get it; you would get caught, old boy.

Mr. O'CONNELL. Get down around the Hotel Royal and 19 Causeway Street, that you know more about, that you live near. Tell us about what you know.

The WITNESS. To show you what this is, some charitable people, like a good many others, they say they are charitable, they have a hotel up there. They run it on a clean basis, however. Here are one, two, three, four, five pages, six pages, seven pages of names up there that are poor fellows that come into the city that are there on the 1st of April, and I do not know how many are registered. There are very few; very, very few. It shows you how the police carry out the law.

Now, then, if there was any attempt to colonize, if there was any attempt to do crooked voting, it would be in places like that. And that is the trouble all over this country. That is where they do crooked colonization and crooked registration, in places like that. They put men in on men's names that were listed the 1st of April, that don't exist. They simply carry the man here, his age, and put the men in on the men's name and vote on them. You will notice—I do not know but the list will probably show if those names—if you will pardon me a minute I will count them up.

Mr. HARRINGTON. About 310 registered.

The WITNESS. There are 300 names and 10 registered. Whatever you gentlemen say is all right. I have no doubt about it. There are 10 men registered out of 300 names. If there was any systematized, organized conspiracy to register those, there is one place, a shining mark to do business in, in a place like that, with 290 names untouched. No question about that. There isn't a particle of question. Now, I am much obliged, Mr. Harrington, for the book.

In that section of the city; that is one instance. There are other places where there are, I believe, 15 and 20 cent rooms, but you gentlemen realize that no lodging house can exist in this city that hasn't had a license from the board of health and that they can't carry in those places lodgers only so many. Each lodger is allowed to have so much cubic air space.

Pardon me, Mr. O'Connell, I am trying to——

Mr. FEENEY. Don't pay any attention to him. Nobody else does.

The WITNESS. I am trying——

Mr. FEENEY. Don't pay any attention to him. Nobody else does.

The WITNESS. Each lodger, they have——

Mr. O'CONNELL. Excuse me if I have to laugh at that, Mr. Lomasney.

The WITNESS. They have rules and regulations. If you kept a lodging house—I hope you never have to for a living.

Mr. FEENEY. He would be a better success at it than he is at the law game.

The WITNESS. I hope you never have to for a living. It is no fooling matter. The board of health come around there and they say how many you are allowed to put in there, because you must have so much cubic air space for each person, and you can't overcrowd. Of course there are places where they have the "deck" system, but the man who is walking the streets of a rainy night and it is cold, he can't have what the gentlemen who have plenty of money have. He must take the best he can, and unfortunately there are, notwithstanding the prosperity that has come to us, a great many—there are many of those poor people, and these places are their housing places.

Q. May I interrupt you just a minute, please, because I do want to get this in the record. That is, you have called my attention to something that is of vital importance, speaking now of 8 Pine Street. Let me ask you, please, of this record, which it has been suggested be introduced by the other side—

Mr. O'CONNELL. Oh, no.

Mr. FEENEY. Loaned to us—kindly loaned to us by Mr. Harrington, of the other side.

Mr. O'CONNELL. That is better.

Q. Referring to 8 Pine Street—

Mr. O'CONNELL. Stick to the truth.

Q. It sets forth the name of the boarder there, his occupation, and also where he lived the preceding year. Now, then, I want to show just where these people who were, for instance, registered at 8 Pine Street voted on the preceding year to show the nature of the scattered population. The first name is a teamster, and last year he voted at Framingham.—A. Mr. Feeney, if you pardon me, it don't show they voted. Shows his residence, but not voted.

Q. Registered, I presume. When I say "registered" I mean his residence. He was registered in this house there?—A. Yes.

Q. Then using your amendment, his residence on this day, the first gentleman, he was a teamster, and he lived the preceding year in Framingham?—A. Yes, sir.

Q. The next man was a laborer, and he lived the preceding year in Lowell?—A. Yes, sir.

Q. The next man was a steamfitter, and he lived the preceding year in Laconia, N. H.?—A. Yes, sir.

Q. The next man was a laborer, and he lived the preceding year in Ayer; the next man was a laborer, and he lived the preceding year at 8 Pine Street; the next man was a teamster, and he lived the preceding year in Brookline; the next man was a shoemaker, and he lived the preceding year at 1025 Washington Street; the next man was a car cleaner, and he lived the preceding year at 251 Dover Street; the next man was a laborer, and he lived the preceding year at Quincy; the next man was a laborer, and he lived the preceding year at Bangor; the next man was a shoemaker, and he lived the preceding year at Marlboro; the next man was a laborer, and he lived the preceding year at Waltham; the next man was a dishwasher, and he lived the preceding year at Gardner; the next man was a laborer, and he lived the preceding year in Lowell; the next man was a laborer, and he lived the preceding year in Quincy; the next man was a laborer, and he lived the preceding year at 11 Columbia Road; the next man was a machinist, and he lived the preceding year at 59 Westford; the next man was a woodsman, and he lived the preceding year at 34 Causeway Street; the next man was a painter, and he lived the preceding year at 226 Shawmut Avenue; the next man was an iron worker, and he lived the preceding year at 31 Worcester Street; the next man was a laborer, and he lived the preceding year at Providence, R. I.; the next man was a laborer, and he lived the preceding year at Bangor, Me.; the next man was a laborer, and he lived the preceding year at 347 A Street. There are several pages of people who resided in this charitable institution home and I will offer in evidence the record which my friend has loaned me, showing me where they lived on the preceding year. Will you be kind enough to have it marked for identification under the heading of "8 Pine Street"?

(The pamphlet is marked "No. 5 for identification.")

Q. Is there anything further you desire to say relative to this contest?—A. I do not recall, sir.

Mr. FEENEY. He is your witness, Mr. O'Connell.

Cross-examination by Mr. O'CONNELL:

Q. Of course precinct 10 you have just read from is in part of the ward that was annexed to your ward, original ward 8, at the last redivision and comes under the ward leadership of Mr. John L. Donovan. That is true, isn't it?—

A. Ward 5 is—there is no ward leadership there. There is a committee. There is a committee—there is a ward committee selected in accordance with the statute, and that ward committee are the persons who are in charge of the Democratic Party's affairs.

Q. You are not familiar with that part of the ward, the same as you are with the old ward lines included in old ward 8?—A. I am somewhat familiar. I am not expert on it.

Q. Not nearly as familiar?—A. I am kind of familiar. I am not expert on it.

Q. Let us come down to your examination this morning. Do you think it was manly—do you think it was a manly thing for you to try to put the blame of your unpopular action upon the shoulders of the dead postmaster?

Notary MANCOVITZ. One moment.

A. I am telling you I told Mr. Tague that when I talked with him—and as long as you bring in the dead postmaster—he told me he would follow him to his grave, and he discharged his duty toward the dead postmaster by charging him with opening his mail, and when the dead postmaster went there and faced him he denied it. He quit him.

Q. The postmaster was alive, then, wasn't he?—A. I am telling you the facts.

Q. The postmaster was alive, then, wasn't he?—A. Alive when?

Q. When he made that statement about him?—A. Yes. He wasn't present when he made the statement.

Q. You are using these excuses and using the voice of a dead man to excuse your action. That is true, isn't it?—A. No, sir; I am telling you the facts.

Q. You are basing most of your actions and conduct in reference to the congressional election on the statements made by the dead postmaster?—A. No, sir; it was one incident in the transaction, and no more. I took an oath to tell the truth, the whole truth, and have that in mind.

Q. Then, why did you emphasize it so much if it was only one of the incidents?—A. Because it was a very important incident.

Q. Exactly. And you are making that very important incident the basis of an excuse for your conduct last year in stopping Congressman Tague from getting reelection, and you seek to justify yourself through the words of a dead man?—A. I told you the facts, no matter how disagreeable they are to you or to him.

Q. When did you make up your mind to shift the burden of what you did onto the dead postmaster?—A. I never shift my burdens on anybody. I am here to face you and him and the world. Now, you have been telling what you are going to do to me. Proceed.

Q. Will you be good enough to answer my question and never mind making any statements about me?—A. That is my answer, sir.

Q. Did you last fall, during the talks on Mr. Tague, at any time include what you have stated here this morning in reference to Postmaster Murray as any of the reasons why you were supporting John F. Fitzgerald?—A. I gave the facts as they were to you to-day.

Q. Please answer my question.—A. Will you repeat your question?

Q. Did you last fall give as any of the reasons why you were supporting John F. Fitzgerald against Peter F. Tague at any time the reason which you have given this morning about the conversation with Postmaster Murray?—A. In what way do you mean give the reason? Explain what you mean by that.

Q. I am not explaining.—A. You will have to give me a question I can intelligently answer.

Q. I am asking you, sir, if at any time last fall you stated that you were——
A. Stated where and stated to who?

Q. Any time last fall——A. Stated to who and stated where. Be specific.

Q. Won't you answer my question?—A. No. You must make a specific question. Stated to who and stated where?

Q. My question is broad enough to include everybody?—A. You must make a specific question. Can't make a broad question with me. I am under oath. You must ask a specific question.

Q. If you will pardon me. I am asking you a question and you answer me.—
A. I will answer your an intelligent question. Now, you make a specific statement, but don't, as you say, make a broad statement. Make a specific statement.

Q. I am asking you a question, sir, and I want your answer. Are you afraid to answer me?—A. Repeat your question again, sir.

Q. Are you afraid to answer me?—A. I am not afraid to answer you or anyone else.

Q. Now, then, I have been three or four minutes trying to get you to answer the last question.—A. You will be three or four minutes more if you don't ask an intelligent question.

Q. All right. Remember, I will stay with you until you answer the question.—A. You be decent and ask me a question that is honest and fair.

Q. I am asking you, sir, if at any time last fall you stated to anybody—

A. Why, certainly!

Q. (continuing). At any time——A. Certainly.

Q. (continuing). That you were supporting John F. Fitzgerald as against Peter F. Tague because of what Postmaster Murray, now dead, told you about Tague?—A. I told that as one of the reasons. It wasn't the real reason. It was one of the important reasons.

Q. It wasn't the real reason? What was the real reason?—A. Because he was a quitter, because he was a disgrace to the district, because he took and allowed Heedy to take money while he was in Congress that he should not have done, because he did not measure up to the position. It is a great district. He fell flat. He done nothing but for himself. He took care of nobody but himself. He had no regards for the rights of the poor Jewish people, the Italian people, of that great cosmopolitan section that lifted him from obscurity, that took him from poverty and gave him affluence.

Q. So, sir, when you told this morning that, as read into the record, the principal reason for your not supporting——

Mr. FEENEY. He did not say anything about "principal" reasons.

Q. (continuing). Was that he had this controversy with Postmaster Murray, you weren't telling the real reason?

Mr. FEENEY. Pardon me.

A. I was telling one of the reasons that helped me to make up my mind that he was an improper man.

Mr. FEENEY. Mr. Stenographer, note, please, that I protest against the question because the witness did not this morning, or at any time, say that was the "principal" reason.

Q. Did you, at any time, on the stump or in any circular issued by you on behalf of John F. Fitzgerald, state that the reason why your nonsupport of Mr. Tague was due to any of these features described by you as having come from the tongue of Postmaster Murray?—A. I never talked in the campaign but once on the election.

Q. And at that time——A. I never mentioned that matter.

Q. No.—A. Because——

Q. So that you are using it now as an excuse, after the thing took place, and you are now on defense?—A. I am on oath as to what I should tell, the truth and the whole truth. I told you the thing under oath. And that's the truth.

Q. What was the reason you gave last fall on this one occasion when you spoke as to why you weren't supporting Mr. Tague?—A. Well, I described the reason I believe I should not support him. I made that statement in the rooms of the organization. I never write out a speech. I never have a speech prepared, and I couldn't tell you, if my life were at stake, exactly what I said.

Q. In substance, what was said?—A. I could not tell you the substance. As I said when you asked me a minute ago what took place at the ballot-law commission, I said, "I do not know; look at the records." That is my position.

Q. I asked you no question about that a minute ago.

Mr. FEENEY. I asked him.

The WITNESS. Some question was asked me about what was said at the ballot-law commission. I said, "I can not tell you; the records will tell the story."

Q. So this morning on the stand is the first time that you have told this excuse, which you put into the lips of the dead postmaster, as your reason for not supporting Tague?—A. This is the first time I was asked the question, and I gave the reason. I am not going around telling reasons until I am called in a proper way.

Q. Were you asked that question this morning, or did you volunteer it?—A. I do not recall; the records will show.

Q. It was only a short time ago?—A. I told you I am a pretty careful man on swearing to something. You have got also to show me the records of what I

say, but you and he were here and you know what took place, so I do not know whether I was asked the question or not.

Q. So, if you were not asked the question——A. I told the truth.

Q. (continuing). And you volunteered the statement, your prior statement, a moment ago, that you never tell anything unless you are asked, wasn't so?—

A. We are talking now as sensible men. We are here for a specific purpose. Now, you never could fool me or catch me; can't do it. You realize we have decent feelings toward one another. I want to tell this thing, no matter who it hits, and I am here to tell the truth, and I told you the truth, and Tague knows it is the truth.

Q. Your statement of the fact, Mr. Lomasney, that you are telling the truth doesn't help one particle.—A. I have a reputation for truth; not like him.

Q. We will see, and Congress will pass on the charges.—A. They will be the judge of him if that matter was called to Congress, I know—taking that corporation's money—he would be unseated, if Congress takes Heedy's report.

Q. Let me take you right there, sir. You are trying to interject something that took place as the result of the mayoralty election of a year ago. That is true, isn't it?—A. I am telling you——

Q. That is true, isn't it? Wait a minute. Isn't that true?—A. I am telling you what the records——

Q. Isn't it true; don't you want to answer?—A. I am telling you what Francis Heedy's records show.

Q. Don't you want to answer my question? Hasn't that all to do with the mayoralty election of a year ago?—A. Certainly.

Q. Yes. And this has been thrashed out on the stump by you and Mr. Fitzgerald in the last——A. I never took the stump in the campaign.

Q. You saw it in the circulars that were printed and were sent broadcast throughout the city?—A. I never took the stump in the campaign. I spoke once in our own club headquarters.

Q. What did you say about this thing? Tell me.—A. I did not mention it at all.

Q. How do you know?—A. I didn't know? Do you say I didn't? I told him he was no fit man.

Q. You told him he was no fit man?—A. I will take it for granted. I may have mentioned it, but I am not swearing on it.

Q. Didn't you say a moment ago you did?—A. If you say I did, produce the record, produce the paper. I do not object to that; if you can produce it, present it here. I was making a speech to 500 or 600 men. I do not know what I said. I did not put it down. I am always careful to state the facts and always have the letters and the records when I talk.

Q. Will you answer my question, sir?—A. I will try to, please. Present it.

Q. Did you state a moment ago you did not remember anything you said at that meeting?—A. I said I couldn't remember exactly what I said.

Q. Now, you want me to understand you did say this in reference to Mr. Tague's mayoralty fight?—A. I don't care what you understand.

Q. Don't you want the record to keep you clear?—A. I want the record to be honest and square for you and for me, giving you a square deal and giving me a square deal; that is all.

Q. Do you want to confuse the record?—A. No, sir; but you are trying to confuse me.

Q. I beg your pardon. I want you to be a little bit slower in answering before——A. Pardon me; I will try to.

Q. (continuing.) Before I finish my question.—A. Pardon me; I will try to.

Q. I haven't yet been permitted to ask a question before you start to answer it or trying to interject——A. I beg your pardon, sir.

Q. We will get along a good deal quicker if you will allow me to ask the question and after I get through, and try to answer it after I get through.

Mr. FEENEY. Ask the questions.

The WITNESS. I will try and cooperate with you, Mr. O'Connell.

Q. Now, I want to know if the statements that you made about the campaign contributions to Mr. Tague wasn't taken from a public document submitted to the city clerk of the city of Boston?—A. Certainly.

Q. Yes. Under oath by him—by Tague?—A. I knew it before I got that paper.

Q. Yes.—A. Certainly; sure.

Mr. FEENEY. This is under oath by Mr. Tague? Or whoever it was?

The WITNESS. By Heedy, his campaign manager.

Q. You know that this was made the campaign subject of abuse of Mr.—by Mr. Fitzgerald in the fight last fall, don't you?—A. I saw it in the newspapers.

Q. Yes; so you are telling nothing new here to-day when you are trying to create an impression that Mr. Tague took money from somebody for his mayoralty fight? You are not telling anything new, are—yes or no?—A. I am telling what took place, and I am giving that as the reason, that he sold the “pass” on that occasion. He was a representative of the people. He had no right, while voting on the people's property, he had no right to allow his campaign manager to take money from corporation representatives that he was voting on, especially when this President of ours—whom we all revere—was fighting to save the people from that expense.

Q. You mean by that what, sir?—A. I mean by that that he done that which he should not do.

Q. In what way did he do it? Now, make yourself clear. I want you to take all the time you need.—A. Will you please give me——

Q. Make yourself as clear as possible.—A. Will you give me the paper, please?

(Mr. Feeney hands witness paper.)

The WITNESS. Do I understand, Mr. O'Connell, I am to answer this in my own way?

Q. I want you to answer it in your own way, because that is the only way you will answer anything.—A. This is the report of the city clerk. This report shows \$6,390 contributed to the campaign of Peter F. Tague for mayor. It is put in by Heedy—Francis E. Heedy. The other part—I haven't the other part of the——

(Mr. Feeney hands witness paper.)

The WITNESS. It is submitted by—says “I, Francis E. Heedy, treasurer, certify that the following is a true statement of all the receipts, expenditures, disbursements, and liabilities of Peter F. Tague, mayoralty campaign committee——

Q. I didn't ask you to read that. I asked you to explain.—A. I was trying to get that in my own way. I asked you if I would start——

Q. I didn't ask you to read it, but if you want to, go ahead—go ahead.

Notary MANCOVITZ. Proceed.

The WITNESS (continuing). “And every officer and other person acting under authority or in behalf of said”—and then there are some stars—“in accordance with the requirements of chapter 835, acts of 1913 and amendment thereof and additions thereto.” It says, “Peter F. Tague, \$2,500; Andrew J. Mahoney, \$25”; then comes “Daniel F. Buckley, \$500.” Then comes “Thomas F. Flannigan, \$50; Moore Bros., \$100; M. L. Emerson, \$500; Fred H. Baird, \$500; Joseph Conway, \$50; Cornelius McGrath, \$20.”

Mr. FEENEY. Is there any need of going any further with that now, Mr. Lomasney?

The WITNESS. I was going along in my own way.

Mr. O'CONNELL. Let him go along in his own way. Nobody else can get in anything.

The WITNESS. Did I say Conway? Did I read Conway?

Notary MANCOVITZ. Yes.

The WITNESS. “Mr. McGrath, \$200; Mr. Ames, \$200; Joseph Casey, \$210; Mr. Greene, \$100; Nolan Bros., \$50; Mr. Callahan, \$50; Thomas McDonough, \$10; Herbert Connolly, \$250; Joseph McGrath, \$25; Joseph F. Murphy, \$10; Frank B. Tague, \$200; Philip Tague, \$250; A. Berenson, \$10; J. Willing, \$250; W. S. Burbank, \$50. A total of \$6,390.”

Now, here is Buckley, Emerson, and Ames representing the tubes, the Pneumatic Tube Co., and they put up \$1,500. Tague has been fighting for the Tube Co. in Washington, as Congressman. William H. Ames, Daniel F. Buckley, or M. L. Emerson did not know Francis E. Heedy. They never saw Francis E. Heedy. They were under no obligations to Francis E. Heedy. They were under obligations to Peter F. Tague—Peter F. Tague for what? For supporting their cause in Congress, as a Representative from this great district.

Q. Go on. I wondered if you had finished. That is all. Go on and take all the time you want. I want you to make a complete statement.—A. And he is a candidate for mayor—he is a candidate for mayor—and he is fighting—he is fighting to give these people another lease of power. He is fighting to give their corporation the public money, not as personal money—the money of the public—and he is voting as a Congressman to vote away the people's money.

What for? To give these people an extension. There is a great deal of opposition to it. The post office authorities believe it is a squandering of the people's money. These are times that need the people's money to be saved. We are trying to keep down taxation. This man's job is to represent the people. He is supporting a corporation, but not the people. You will find—you will find—I have it right here—you will find the veto—I think I have the paper right here in another pocket, which says "President kills mail tube provision." The Globe of June 30, 1918, "Vetoed post-office bill because of it. Measure re-passed by both Houses without this feature." This was a time of war.

The President, in his capacity as the Commander in Chief of the armies and as the President of this country, regarded this as a matter necessary to the people to stop the public money going into this corporation. "Don't give the public money," he said in his veto, "to this corporation," and this is what is included in the Globe in his veto message. The President said:

"I am convinced that there is no moral or legal obligation resting on the Government to continue the use of these tubes by rental. At the time they were installed they may have had some value as a postal facility, but that was before the volume of mail had reached the enormous proportion which it has today and before the development of the use of motor vehicles. These developments have made the tubes practically obsolete.

"The postmasters of various cities where the tubes are in use have spoken against them and urged that they be abandoned. These reasons seeming to me conclusive and compelling I have not felt at liberty to acquiesce in this feature of the bill, which I return reluctantly herewith."

"The pneumatic tubes have been the source of hot fights in Congress for many years. Those opposed to the operation have charged that the private interests owning them were attempting to 'unload' them on the Government."

Mr. FEENEY. That is President Wilson's veto?

The WITNESS. That is what the Globe said.

Mr. FEENEY. Of the vote participated in by Mr. Tague.

Mr. O'CONNELL. Pardon me, he started to say what President Wilson did, and then read a newspaper article.

The WITNESS. Because the veto message—I want to be fair to the other side. I will turn the matter over because the veto message—I think you ought to see it.

Mr. FEENEY. We will offer it in evidence so there will be no question.

(The clipping from the Boston Globe, dated June 30, 1918, is marked "No. 6 for identification.")

The WITNESS. Could this man, being a representative of the people and on that veto which he did not vote to sustain, ever have a campaign manager take fifteen hundred of their cash? Could he? Well, then, he must be a wonderful man, and why didn't he follow the great President on that question? Was it because that this Mr. Heedy got fifteen hundred? Now, there is one of the reasons. That was a base betrayal of the public trust, one of the worst betrayals of the public trust ever encountered in this city since I have had anything to do with it. It shows—it shows that—it will show that Buckley, Emerson, and Ames did not know Heedy. Who was delivering—Heedy or Tague? No; Tague was delivering his vote and influence to the corporation for the coin that Heedy received. That is my viewpoint, and that is where it is wrong.

Q. Now, then, you have got done?—A. Yes.

Q. This tube bill, according to the Globe date, was vetoed by the President in June of 1917, isn't it?—A. Whatever it says there. I do not know.

Q. This campaign contribution from Mr. Tague was seven or eight months later?—A. I think that is—pardon me, look on the date of the Globe and see if it don't say there "1918." What does the Globe say was the date of the Globe?

Q. There is no printed date line on it.—A. I mean written on it. Pardon me, may I see that?

Mr. FEENEY. Show it to him, Martin.

The WITNESS. That is my writing. This was in the Globe, not of 1917 but the Globe of June 30, 1918.

Q. It doesn't say so in the Globe.—A. That is my writing. I will bank on that.

Q. Now, this pneumatic tube, in order that we may understand things, the retention of the pneumatic tubes was advocated by the mayor of Boston, the

Chamber of Commerce of the City of Boston, the merchants' association, and all the boards of trade of this city, wasn't it?—A. I do not know anything about that.

Q. Don't you know about it?—A. No. Will you ask me——

Q. Don't you know that to be a fact, Mr. Lomasney?—A. No, sir; I do not.

Q. Don't you keep abreast of what is going on, of those things?—A. When you make a statement and ask me if five or six men said a thing, I don't say when I haven't talked with them.

Q. Don't you know it is a public matter?—A. I know this——

Q. Won't you wait? I am not asking what you know. I am asking you the question.—A. Pardon me.

Q. Don't you know, as a matter of public knowledge, that the mayor of Boston advocated the retention of those tubes?—A. Which mayor of Boston?

Q. This mayor and the man ahead of him.—A. I never knew that.

Q. You did not?—A. No, sir.

Q. Didn't you know that the chamber of commerce has gone on record year in and year out as recommending their retention?—A. They may have. But I am not going to affirm it when I don't know it. I am not going on record to say so when I don't know it.

Q. Don't you know, as a matter of fact, that many other public parties here in this city have urged the retention of this tube system?—A. I do not know it, but I will tell you, there is one of the great—the old “Martha Washington.” That is what got him—the coin. Right there. The coin, he shows it right there.

Q. Did you know that the mayor of Boston sent a special delegation to Washington?—A. No, sir——

Q. (Continuing) to urge retention of the tubes?—A. Which mayor of Boston?

Q. This one and the man ahead of him.—A. I didn't know it, sir.

Q. You know that the other two Members of Congress from Boston voted as did Congressman Tague on that matter?—A. I do not know, sir, whether they did or not. If you show the record, I will say so. If you assure me, I won't deny your word; but I did not see anything about any of those gentlemen taking coin from the officers of the corporation they were voting for, like Tague's campaign manager.

Q. Do you know that all the New England Congressmen voted for the retention of that tube system?—A. I do not know anything about it, sir. I do not think the New England Congressmen took the coin of the corporation, like his campaign manager did, sir.

Q. Are you now stating the only reasons—this and the other in reference to the vote on the war—as to why you did not support Congressman Tague?—A. No; I know there were a lot of incidental things that led up to it. No one or two things. He had made me a promise to quit at the end of four years and support a ward 5 man, and he broke his promise. He was a liar.

Q. If that was the reason?—A. That is one reason.

Q. (Continuing.) You are adding these other reasons, then?—A. No; these are all elements.

Q. Wait, please, please.—A. Pardon me.

Q. These other reasons you are giving to-day are all afterthoughts for the purpose of besmirching Mr. Tague's name. are they not?—A. This is a public record of what his manager done in order to make him mayor. That is not besmirching him. Of course, I do not wonder that you say it besmirches him. It does more than besmirch him. It shows what he is.

Q. What do you expect it does?—A. It shows that he is——

Q. In what way?—A. A man who will go to Congress and put up his right hand and swear to do justice with his office and then support a corporation against the President of his country and take money from the officers of the corporation to make him mayor, is what he has used his office for—to get the corporation's money. That is an improper thing. I do not say whether it is a legal thing. It is absolutely an improper thing to do. As I said before, if they defeated Jim Mann for leader because he takes a few steaks, what about this chap who will say, “I am St. Peter; I am St. Peter,” and then he is in this position with the silver, with the silver, the 12 pieces of silver in Heedy's pocket or the 40 pieces of silver.

Q. Before taking up anything further, I want to give you all the time in the world on this. Go ahead and tell me any other reasons; anything like that.—

A. I have given you all, I guess. There may be some I don't remember.

Q. I would rather you finish it up and tell it all.—A. There was a lot of minor things. The Jewish people down in our way could get no recognition. When Jewish boys would go to his office they would be insulted and called “sheenies.” The Italian boys were given no standing. They could get nothing. He would do nothing for the district. He took care of lots of other people. He wouldn’t do nothing for the district. The people were aroused. Women would go up there, poor women, respectable and honest, whose fathers put him there, lifted him from obscurity to affluence, and they would be shoved aside. There was a general feeling against him. That is another element. All those matters contributed.

Q. You took all these matters into consideration?—A. Certainly.

Q. And as a result of taking all these matters into consideration, you decided that he was not to be the next nominee?—A. I decided I wouldn’t support him.

Q. Now, you are the boss of ward 5?—A. No, sir.

Q. What?—A. No, sir.

Mr. FEENEY. You are not hard of hearing?

Q. Did I understand you correctly?—A. Certainly.

Q. What are you in ward 5?—A. I am a member, at present, of the Democratic State committee, and I am an ordinary “six-o’clock” Democrat.

Q. What have you to do with the guidance of the affairs of ward 5?—A. I work in conjunction with the regularly elected ward committee and the different committees that are interested in the success of the Democratic Party in that section of the city.

Q. How often have you worked against the interests of the Democratic Party in that section of the city?—A. Well, very seldom.

Q. Very seldom?—A. I told you I was against Fitzgerald for mayor when you were with him, and you saw what happened.

Q. At that time you supported Louis A. Frothingham, the Republican candidate for mayor, didn’t you?—A. We believed——

Q. Yes or no?—A. We believed——

Q. Yes or no; did you?

Notary MANCOVITZ. Answer the question in your own way.

The WITNESS. I am answering the question in my own way now, here.

Q. Did you?—A. We believed—we believed—you see, I use the word “we.” We believed the best interests of the city demanded the defeat of Mr. Fitzgerald. I leave it to history to tell whether we were right or wrong.

Q. And still you haven’t answered my question, and I insist on your answering. You supported Louis A. Frothingham, though he was the Republican candidate for mayor, didn’t you?—A. He was standing for good government, and we supported him.

Q. And he had the Republican nomination, didn’t he?—A. I presume he did.

Q. Don’t you know he did?—A. I think he did.

Q. Now, you have been able, at all times, to balance that ward of yours——
A. Pardon me.

Q. (Continuing.) And able to deliver to the men you want?—A. No; I haven’t.

Q. You started your political domination of that ward by first electing to the House Harry H. Atwood, as a Republican, in order to show your strength in that ward, didn’t you?—A. No, sir. Not at first.

Q. But you did elect a Republican?—A. Yes.

Q. To the House of Representatives from a Democratic ward?—A. Let me tell you——

Q. Wait, please. I am not on the stand.—A. I beg your pardon.

Q. You did elect a Republican to the legislature in that ward?—A. The people of that ward elected Mr. Atwood to the legislature.

Q. That was at the time, and you supported Mr. Atwood for that election?—A. Unquestionably at that time.

Q. Yes; although you are a Democratic leader——A. We were never claiming to be Democratic leaders.

Q. You claim to be a “six-o’clock” Democrat, and you helped to elect a Republican to the legislature, didn’t you?—A. I told you who we elected and told you what we done. We were fighting an organization that was in control, and as fighting that organization we supported Mr. Atwood, a Republican, and another man who was a Democrat, and we put——

Q. And that is what you call a “six-o’clock” Democrat, is it?—A. That was way back in the eighties.

Q. What time in the eighties was that?—A. Mr. Atwood——

Q. Now, please answer my question. What time in the eighties was that?

Mr. FEENEY. Go ahead and finish that answer. Wait a minute. Let him finish.

The WITNESS. I should say somewhere around—now, I don't want to be specific. It may be 1888, 1887.

Q. From 1888 down to 1918, when you displaced Peter F. Tague, you have been the undisputed boss of that ward, haven't you?—A. No, sir. Never was the undisputed boss of any ward. You do me too much honor.

Q. Who divided the honor with you?—A. We have, in our organization, we have a ward committee that is apportioned by the city of Boston on the basis of population, I believe now, of 10 members. We have a Jewish committee of 8 members. We have then the judgment of men of older experience, of 15 or 20 years, and a general committee of probably 50, 75, 150, or 250, as the occasion requires. No one man. It is too intelligent a section to be dominated. No man could control it. Too intelligent—the people are too intelligent. They showed it—they showed it by the way they vote. I always said that people were foolish enough to say I did not know what I was talking about, but I am proud to say that it is in my opinion the most intelligent district in the State.

Q. As the result of that intelligence, you are able to switch the ward to a Republican candidate for mayor, like Mr. Frothingham, on your sayso?—A. No, sir.

Q. Who divides your authority in that ward with you?—A. Several men.

Q. Name the one man, please, that divides your authority down there with you?—A. There are a dozen men.

Q. Name me one man.—A. Are you talking now about the Frothingham days?

Q. I am talking about this hearing now.—A. Which do you want?

Q. Any time since 1888 down to the present time. Name me one man that has divided the authority with you?—A. That is a long period, and I don't like to——

Q. It is the last 30 years?—A. I told you—yes, sir.

Q. Can you tell me any one man in this 30 years that has divided the political authority of that ward with you?

Mr. FEENEY. Wait a minute. Pardon me. Are you sure you want to go back 30 years in determining the——

Q. Please answer the question, Mr. Lomasney. I am not entering any controversy with you.—A. I do not want to be offensive to either side. I want to be courteous.

Mr. FEENEY. I am perfectly willing that they should have reasonable latitude, and I really enjoy seeing the two of them at each other, but I do not think we ought to go back 30 years.

Notary MANCOVITZ. I agree with you.

Mr. FEENEY. To determine some of the questions at issue here.

Notary MANCOVITZ. Confine it to more recent times.

Mr. O'CONNELL. I am going to show that this man has been the undisputed political dictator of ward 8—now ward 5—for the last 30 years; that as the result of his political dictatorship and kaiserism he has been able to do anything that he pleases down there; and I think it is perfectly pertinent to this inquiry to show up the dynastic relationship between this man and his political slaves in that ward.

The WITNESS. Pardon me, Mr. O'Connell, that is an offensive word.

Mr. O'CONNELL. And I am going——

The WITNESS. Pardon me, Mr. O'Connell, that is an offensive word to apply to intelligent men about the general vicinity you were born in. They are free men. You are an intelligent man and you have to make your living before juries. Don't call any of your free men—many of them your own people—slaves. There are no slaves in this country to-day. You live in the past. The only slaves are over in Ireland. Holler against that. No slavery here.

Mr. O'CONNELL. I am not at all intimidated by your allusion to jury work.

The WITNESS. That is a very offensive word, and I know you did not mean it, but it makes a bad impression. I am saying it is a very offensive word to apply to any class of people—they are slaves, they are slaves. They are intelligent people. They are poor people, honest people. They are poor people, honest people; poor people and honest and intelligent.

Q. You have been able to get these colonized voters of yours that you justified on the ground that they have a right to take a domicile where they choose, to vote in the manner in which you want them to vote?—A. I never got a colonized voter to vote for me or anybody else in my life.

Mr. FEENEY. Will you pardon me at just this moment, Mr. O'Connell?
 Notary MANCOVITZ. It is 1 o'clock, and we will take a recess until 2 o'clock.
 (Noon recess.)

AFTERNOON SESSION.

MARTIN M. LOMASNEY, cross-examination resumed:

Notary MANCOVITZ. Are you gentlemen ready?

Mr. O'CONNELL:

Q. Now, Mr. Lomasney, you have supported Harry Atwood for the legislature when he was elected, and you have supported Republican candidates for mayor, as Louis A. Frothingham against the Democratic nominee. Now, you supported Isaac F. B. Allen for the governor's council against John H. Sullivan, didn't you?—A. No, sir; I did not.

Q. As a result of the dark-cellar campaign which you waged against John H. Sullivan for the governor's council the result was the election of Isaac B. Allen, an unknown negro, at that time?—A. That is an actual falsehood.

Mr. FEENEY. Now, wait a minute. I don't like——

The WITNESS. I am prepared to demonstrate it by the figures. It is a falsehood.

Mr. FEENEY. I don't like to interrupt at this moment and, really, I am having as much fun as anybody is having here, but I want to finish as soon as I can. I don't see what those people have to do with this inquiry about the congressional election.

Notary MANCOVITZ. It has nothing to do with it, and ought not to be brought into it.

Mr. O'CONNELL. It has this to do with it, in answer to your suggestion: I am going to say that this man is the absolute dictator of political affairs in ward 8, now ward 5; that he can elect to office a Republican or Democrat, according to his own desires and according to his own machinations; that "Democrat" or "Republican" mean nothing to him except to have his own way. Now, Mr. Lomasney——

Notary MANCOVITZ. Just a minute. Isn't that a matter of opinion instead of fact?

Mr. O'CONNELL. It is a fact and you know it, Mr. Mancovitz.

Mr. FEENEY. Just let him demonstrate it.

Q. Now, at that time that John H. Sullivan was defeated as the result of the candidacy of Isaac B. Allen, an unknown negro, John F. Fitzgerald was also mixed up in the cabal within the Democratic Party that surreptitiously brought about the defeat of one of the most sterling Democrats of Massachusetts, in the person of John H. Sullivan, who was the candidate for governor's council in a district which never before had elected anybody to the council except a Democrat.

Mr. FEENEY. Is that a question or a preliminary statement to some speech?

Mr. O'CONNELL. Do you think that is factitious?

Mr. FEENEY. I don't think it is a question.

Mr. O'CONNELL. Mr. Stenographer, will you read that question to the witness?

(The question is read.)

A. I think the figures will speak for themselves. I have a book, and if somebody will take down the figures we will see where we stand.

Q. Give me the list and the others can—— A. No; I will give you what you want, in the Sullivan fight. Let us figure out one thing at a time.

Q. No; I am asking these questions.—A. Do you think that is a question? I say, do you think that is a question? Is it a question?

Q. I ask you for an answer to the question.—A. I will give you the answer to the question right from the election commissioners' figures.

Q. Are you going to answer, or make speeches?—A. I told you that I did not take part in the defeat of John H. Sullivan, and I told you I could prove it to you. Do you want me to prove it to you?

Q. Will you answer the other question in regard to the cabal between you and Fitzgerald for the defeat of the Democratic candidate for the governor's council?—A. Pardon me. I wish you would define that word "cabal." Is it Irish, or is it Yiddish?

Q. For your enlightenment, that means, as I use it here, a "gang conspiracy." Now, were you engaged in a gang conspiracy with John F. Fitzgerald to bring about the defeat of John H. Sullivan, which resulted in the defeat of Sullivan

for governor's council, and the election of Isaac B. Allen, a negro, which brought about a scandal in Massachusetts?—A. No, sir.

Q. Were you or not?—A. No, sir; and I will prove it to you if you will let me.

Q. Wait a minute.

Mr. FEENEY. Answer the question if you want to.

The WITNESS. I want to be respectful to Mr. O'Connell. I want to help if I can. I am not afraid of the figures. We went over that forty times.

Mr. FEENEY. Go ahead with your answer, if you want to.

Q. Now, sir——

Mr. FEENEY. Pardon me. If you have not completed your answer, Mr. Witness, you have the right to finish it.

The WITNESS. Well, I will tell you. We will take the election for governor, for President, for Senator, for the governor's council and for Congress in that district, and here is the book. You have a lot of mathematicians who can go over the figures. Go over them and you will find that the ward in that district which gave the strongest support in the district to Sullivan was ward 8, and he was defeated by the voters in ward 6 and ward 9, and I made a speech the night before, in Lyceum Hall, one of two occasions in my life that I spoke there, and I warned him to be careful, and I spoke specifically for John H. Sullivan and the entire Democratic ticket, and the figures will show that. I will read the figures if you want me to. I will take time to put them down. That was the Bryan year. There was a split in the Democratic Party. It had nothing to do with ward lines. That year ward 8 felt the effect of it and Boston itself was carried by Walcott and I believe by McKinley, by a tremendous majority. Now——

Q. Pardon me.

Mr. FEENEY. No. Don't interrupt him until he finishes that answer. Now, we will read the vote and we will finish that question.

The WITNESS. Ward 6——

Q. At that time John F. Fitzgerald was in control of ward 6, wasn't he?

Mr. FEENEY. Pardon me, Mr. Lomasney, you may finish the original answer first.

The WITNESS. I will read the vote, as I say.

Q. In order that we may understand, as we go along—— A. I will give the vote to Mr. Goodwin and he can put down the figures and the entire vote, and I will take his figures to save my time.

Mr. FEENEY. I will offer the book in evidence, so that we will be able to prove it ourselves.

(Election commissioners' return, pamphlet, marked "Exhibit 7.")

Mr. O'CONNELL. You are coming to his assistance, are you?

Mr. FEENEY. He does not need any assistance, but the Red Cross ought to come to yours.

Q. As Mr. Feeney has relieved you of the necessity of answering that question, I want to ask if you have anything more to say about it?—A. I say that your statement is an absolute falsehood.

Q. I am asking you questions.—A. That is what I say about your statement.

Q. Isn't it true that John F. Fitzgerald, now, or last fall, the candidate for Congress, was in charge and in control of ward 6 at that time when Isaac B. Allen ran for the governor's council against John H. Sullivan?—A. I think he was.

Q. So that John F. Fitzgerald played the ignominious part of Democratic treachery to elect to the governor's council in Massachusetts an unknown negro, which resulted in political scandal in Massachusetts?—A. I am not a defender of Fitzgerald's attitude in any contest, but your statement, in my opinion, is false.

Q. You know he was in control of ward 6?—A. I know he was then in ward 6, but when you ask me to verify or to answer, I say just as I said about the other, I won't do it. I have no such knowledge and I don't believe it.

Q. On the day that Allen was elected in the governor's council, was Fitzgerald a candidate for Congress at that election?—A. Yes, sir; the books will show you that; yes, sir.

Q. And was it not the surprise of Boston and of Massachusetts——

Mr. FEENEY. Oh, wait a minute. Wait a minute. What does he know about surprise of Massachusetts?

Mr. O'CONNELL. Are you through?

Mr. FEENEY. I am absolutely through, and you ought to be through, too. If you had good sense you would be through. But I want you to go right ahead, because I can see what is in store for you.

Mr. O'CONNELL. I wish you would stop interrupting me.

Mr. FEENEY. Then why ask such questions about the surprise of Massachusetts?

Mr. O'CONNELL. Well, can't you be quiet, like a good little boy?

Mr. FEENEY. No; I can't.

Mr. O'CONNELL. Martin gave you your orders, and you are here because of it. Tell him to keep still [addressing the witness].

The WITNESS. I have no control over him at all.

Mr. O'CONNELL. He managed to get you in here to-day, I see.

Mr. FEENEY. No; I came in to see the fun.

Mr. O'CONNELL. When you get through badgering me, I will go on.

Notary MANCOVITZ. If you will attend to the questions and answers, you will get along faster.

Q. Give me the names of other Republicans that have been supported in that ward that you control.—A. I don't control any ward.

Q. Give me the names of Republicans that have been supported in your ward by your organization.—A. I have no ward.

Q. Isn't ward 5 your ward?—A. No, sir.

Q. Don't you hail from there?—A. I live there and vote from there.

Q. Then, referring to it as your ward, in that respect, give us the figures of Republicans whom the organization in ward 5 have supported for office.—A. I don't recall any.

Q. Do you recall Edward W. Preshe?—A. Yes; I recall him, and I never voted for him in my life. He used to go around with the card of the A. P. A. in one pocket and the card of admission of the Ancient Order of Hibernians in the other. [Laughter.]

Mr. FEENEY. I should like to sit here and hear this go on indefinitely, but I shall have to object to it, because I want to get through.

Notary MANCOVITZ. I shall rule it out.

Mr. FEENEY. I shall object to any further questions about the fellow who carried the card of the A. P. A. in one pocket and the card of the Ancient Order of Hibernians in the other.

Q. Did you oppose the nomination of James H. Gallivan, who had the Democratic nomination, and did you support the Republican nominee?—A. I supported John B. Dore, who was a Democrat all his life. Born a Democrat, and died a Democrat.

Q. Do you know that you supported John B. Dore against James H. Gallivan, who had the regular Democratic nomination?—A. John B.—

Q. Yes or no.—A. John B. Dore was born a Democrat and had repeatedly had the Democratic nomination. The board of strategy at city hall decided to turn him out. I exercised my own prerogative and voted for Dore, and I do not apologize for a minute.

Q. But, in fact, Dore was running on the Republican ticket, wasn't he?

Mr. FEENEY. I object to that question.

Notary MANCOVITZ. I rule that question out.

Notary BERMAN. I don't think that the notary has any right to rule in this way.

Mr. O'CONNELL. You are getting worried, are you, about your Republicanism?

The WITNESS. No; I am not worrying about anything. There is the fellow there that is worrying [Congressman Tague]. You just tell me to read a letter I have got in my pocket. You didn't do it in the ballot law commission, did you?

Mr. FEENEY. Mr. Notary—

Mr. O'CONNELL. Pardon me. I call the attention—

Mr. FEENEY. No; I am addressing the notary.

Mr. O'CONNELL. I call your attention to the fact that a demonstration has occurred in this room, begun by Senator Fitzgerald, and by James H. Brennan, another Lomasney man in this part of the courtroom here, and I ask now that you call upon the deputy sheriff or the marshal to maintain order in this courtroom.

Notary MANCOVITZ. We will proceed.

Mr. FEENEY. I want to call your attention, Mr. Notary, to the record made by Mr. O'Connell, which is as follows:

Mr. O'CONNELL. May I go on with the cross-examination?

Mr. FEENEY. Pardon me.

Mr. O'CONNELL. Pardon me. Have you stopped your—

Mr. FEENEY. Mr. O'Connell said, according to the record: "Mr. Berman, sitting for us, has no power to hear this. Neither has Mr. Mancovitz, sitting as a representative of Mr. Fitzgerald. This is a proceeding, as I understand the law, simply to take the testimony. Questions of law will be decided by the congressional committee. These judges have no power to decide the questions of law, and it would be an idle proceeding to attempt to discuss questions that would have to be discussed later on before the committee. So far as rulings are concerned now, Mr. Berman will act as the sole judge. When Mr. Fitzgerald opens, then Mr. Mancovitz will pass upon the question." That is a statement made by Mr. O'Connell, and Mr. Berman was free to pass upon it, so that from this time onward I shall insist that Mr. Mancovitz make the rulings here as Mr. O'Connell suggested.

Mr. O'CONNELL. Just one minute. That was all right, every bit of it—

Mr. FEENEY. Good.

Mr. O'CONNELL. And every word that I said then I stand for now.

Mr. FEENEY. All right.

Mr. O'CONNELL. Now, then, your associate, Mr. Callahan, was given unlimited scope in his cross-examination. And I attempted to stop him at no time in it, and I ask that same right of you. I am conducting the cross-examination of this man and I ask him to stand there and submit to a cross-examination like a man, and if he does not want to, let him say so. If you don't want to, you say so, and the hearing may end right here and now if you don't want to answer these questions which you are afraid to have me ask, afraid to have the light of day come in. Give me a chance to cross-examine him and show the world the kind of man he is and what he is doing down there. Put the cross-examination into the record and let him stand by it.

Mr. FEENEY. All right. Now, you can go the distance. Let him take his medicine. He deserves it.

Notary MANCOVITZ. Mr. O'Connell, if you will confine yourself to cross-examination of the matters and issues involved in this hearing, we will make progress, instead of going back to matters which happened 20 or 30 years ago.

Mr. FEENEY. Mr. Mancovitz, I hope the notary will not make any ruling unless I object. I want this gentleman to go ahead and not quit as he is trying to do.

Notary MANCOVITZ. All right.

Mr. O'CONNELL. Nobody ever called me a quitter.

Mr. FEENEY. Oh, yes; there have.

Mr. O'CONNELL. Your statement of it doesn't make it so.

Q. Now, let me ask you this: John B. Dore was the Republican nominee in the city of Boston at the time you supported him?—A. I think at that time he was, but he was always a consistent Democrat before that. He was a capable, conservative, able, public officer, and the Board of Strategy, which I was citing at the time, tried to defeat him for public office. And I stood by, and if the members of the organization had stood by John B. Dore he would have been elected.

Q. Now, you will remember that in the primary John B. Dore was defeated?—A. They had no primaries, they had a convention.

Q. And the reason that he was defeated that you were interested with Dore in street widenings in the north and west end?—A. That is all an absolute falsehood and you must remember that he is a decent, respectable man, and you should not slur his memory that way. It will be well for you when you die if you stand in the community as well as John B. Dore did. He has a family that is a credit to know. He came from the part of Ireland that my father was born in, County Cork. We were never ashamed of John B. Dore. He was a model citizen, he was a model father, and as I told a man recently when he was talking a lot about it before the constitutional convention, a very prominent man, a Boston merchant—I said "If you can show as good a record and can show that you have given a hospital like Mr. Forsyth, to the city of Boston, you will be very lucky." He is now in bankruptcy. Don't throw reflections on Mr. Dore. He is dead a good deal longer than William F. Murray is.

Q. You supported Mr. James F. Gallivan a few years before that as an independent candidate for Congress?—A. Yes, sir; against John F. Fitzgerald.

Q. Only two years previously. In other words, it resolves itself into this: Unless you can have your way in securing the nomination, you will go out and defeat the candidate that defied you, by taking up any party that you can to

defeat him, regardless of the fact that he has the regular Democratic nomination. That is true, isn't it?—A. I am uncontrolled and uncontrollable. Nobody owns me and nobody can dictate to me. The board of strategy, Quincy, or anybody else. I claim to be one of the real old independent Progressives.

Q. Once again, you are uncontrollable by the laws of tradition, of Democratic opposition, as far as politics are concerned; unless you can have your own sweet will nobody can control you. That is what you mean, isn't it?—A. No, sir; I am sorry that your understanding is such that you can not understand the plain Anglo-Saxon answers as I give them to you.

Q. Will you please explain what you mean, that you are uncontrollable?—A. I mean that I am master of my own life. That God Almighty gave me will, memory, and understanding. That I am under no financial or moral obligation of any kind at all; that no man can take me in a room and tell me to do this or that. I have tried to do what I believed to be the proper thing for this city, this State, and this Nation. I have certainly made my mistakes, but my name is in the State house and in City Hall. It speaks for itself, and in my opinion, it will live when a great many minds, in their own opinion greater, will be dead and forgotten.

Q. You have not yet told me what you mean by "controllable" as far as it refers to not following the Democratic nomination on election day.—A. I was not a member of the convention which nominated John F. Fitzgerald for Congress. James F. Gallivan was being opposed at that time by the Board of Strategy. James A. Gallivan was a candidate. Gallivan was supported by us and we supported McNary the same day for the governor's council. A year ago fighting the board of strategy took Mr. Gallivan away from that element in the community and gave him the nomination for street commissioner, and I exercised my divine right at the polls and I voted for John B. Dore, and I did not and never have apologized for it.

Q. In other words, when you could get James A. Gallivan to serve your purposes you supported him, and you refused to support him as the regular Democratic nominee?—A. I refused to support Gallivan when the board of strategy put their seal of approval on him.

Q. Do you want some more water?—A. My throat is in bad shape.

Q. Are you getting a little weak?—A. No, sir. I am pretty near 60, but I will stay here with you until morning.

Mr. O'CONNELL. He wants more water. Give it to him.

The WITNESS. You need not wait for me; go right ahead.

Q. That board of strategy that you referred to was composed of Mayor Quincy?—A. I think he was a member.

Q. And John F. Fitzgerald?—A. I think he was another member.

Q. And who else?—A. John A. Kelliher, I think, was a member.

Q. The former Congressman?—A. The present sheriff. I think Peter J. Clark and John Carr were members.

Q. Any man that they suggested for office might—

[Two men are bringing the ice-water tank into the bar inclosure, near the witness stand.]

Q. You are not asking for any delay, are you?—A. Not a particle.

Mr. O'CONNELL. He said he wanted water.

The WITNESS. I have got it here.

Q. Have you got disturbed so that you want water?—A. I am not a quitter.

Q. I did not say you were.—A. I am much obliged to you.

Q. I want your voice to keep up.—A. It will last as long as yours.

Q. I hope so. My throat is bad. Now, as a result of the democracy of Boston having such leadership as you have just named, you established what was known as the Philippino Democracy in Boston, did you not?—A. No; I did not.

Q. At that time there was what was known as the Philippino Democracy. Is that true?—A. I don't know anything about that. He said I established it. There were a lot of young men fighting together, and they gave it various names.

Q. Philippino was one of them?

Mr. FEENEY. And Tipcart was one of them. Tipcart democracy.

A. I don't know about that.

Q. This Philippino democracy was composed of your supporters mainly throughout the city of Boston?—A. Oh, I would not say that. There were a great deal stronger and more brilliant minds than mine associated with the movement. There was the Hon. John E. Hayes, Charles I. Quirk, James

A. Gallivan, Jeremiah J. McNamara, and a great many men whom I could mention. There was no one man in control, but they were all factors.

Q. You were the titular leader, were you not?—A. No; I was not. I was never the titular leader of anything except myself.

Q. How about ward 5?—A. Ward 5 was not in existence at that time.

Q. Who was the leader in ward 8?—A. Just as now. There were a number of young men associated together and no one especially was designated as the leader. They were all associated together and part of a general committee.

Q. At that time that Mr. Gallivan ran against Mr. Fitzgerald, and he had the Democratic nomination, you were able to swing ward 8 at that election for Mr. Gallivan?—A. No sir; I did not swing it.

Q. Ward 8 went to Gallivan at that time, didn't they?—A. I think the people of ward 8 voted for him on that day.

Q. And you supported him?—A. Yes; I supported him.

Q. Mr. Lomasney, do you think that you are fooling anybody when you say that you are not the leader, the political leader, of ward 5? Do you really think so?—A. I really think that the facts justify my statement, and if you were as familiar with the conditions in the locality as I am you would know it was true. The men who get swelled heads and think they are leaders don't laugh long. I have no such desire or disposition.

Q. What do you suppose you had in mind, or what did you have in mind, when you told us that Mr. Tague came down to consult you in reference to the support of ward 8? What did you mean by that?—A. I told you the fact. He said so himself. Ask him what he meant by it.

Q. I am asking you—A. I told you that he came down there.

Q. What did you understand by it?—A. He was trying to get my support.

Q. And if he got your support he had the support of ward 5, didn't he?—A. I don't think so.

Q. Do you mean that?—A. Certainly, I mean that.

Q. You are smiling when you say it.—A. I was never more serious in my life.

Q. You can't even keep a straight face when you say it.—A. God Almighty made my face, and I am sorry that it doesn't satisfy you. I know I am not a handsome man.

Q. Coming back again to Gallivan and Fitzgerald, Fitzgerald was a regular nominee for Congress; he had the Democratic nomination, didn't he?—A. I think he secured the regular Democratic nomination in the convention.

Q. And you supported Gallivan in distinction from that?—A. The ward 8 organization supported James A. Gallivan at that time.

Q. That was done because you requested the organization to do it?—A. No, sir.

Q. You worked at the polls that day against the regular nominee?—A. I got every vote I could on that day in support of James A. Gallivan, and I never apologized for it.

Q. And in the city fight between Frothingham and Fitzgerald, you worked at the polls that day?—A. Unquestionably, and I am proud of it. The history of the city will show that I was right.

Q. For the Republican nominee, Louis A. Frothingham.—A. Unquestionably, and I have told you that several times. I showed on that occasion independence, and I led the way to a movement in this city that has brought about the present situation.

Q. You said that you supported Frothingham because you believed in good government?—A. Yes, sir.

Q. Now, let us read what the good government says about Fitzgerald.

Mr. FEENEY. Well now——

Q. Whom you now say you now support.—A. I did not say I supported the Good Government Association. That is an entirely different proposition. I can give you a history of those men if you want me to do it, and I have done it frequently.

Mr. FEENEY. There is a vast distinction between good government and the Good Government Association.

Q. Let us read——

Mr. FEENEY. I pray your honor's judgment.

Q. [Reading:] "John F. Fitzgerald——"

Mr. FEENEY. Pardon me. Is the notary going to admit in this court what some private organization or some other person at some time in the absence of Mr. Fitzgerald said about it?

Notary MANCOVITZ. It should not be allowed to go in.

Mr. FEENEY. I object to it.

Notary MANCOVITZ. The objection is sustained and Mr. O'Connell can save his exception.

Mr. O'CONNELL. Your candidate and client starts out his answer by stating——

Mr. FEENEY. Pardon me.

Mr. O'CONNELL. Don't get so rude as to interrupt when I am making a statement. It is good policy for one lawyer to wait until the other lawyer stops before he starts talking. It is the common practice among lawyers, a practice which all lawyers indulge in. What I was going to say when you interrupted me was this: In the answer which your client filed in this case he alleges that he is an eminent Democrat, that he served three terms as a Member of Congress and subsequently was Mayor of Boston, and therefore ran in this district which he was not a resident of because several organizations had asked him to, men of great affairs had asked him to do so. Now, it would seem as though that in itself would justify my question at this time. But above and beyond that, Mr. Lomasney in his testimony this morning brought in the dead and seeks to hide behind the dead man, Postmaster Murray, in his excuses for what he has done, and certainly when they fetch in the dead, even though it be on this political stretcher, at this political funeral of John F. Fitzgerald, it does seem to me that we have got a perfect right to find out why this man Lomasney supported John F. Fitzgerald at this time, when he opposed him for mayor at that time.

Notary MANCOVITZ. At what time do you refer to, Mr. O'Connell?

Mr. O'CONNELL. At the time he has testified to.

Notary MANCOVITZ. At what time do you mean?

Mr. O'CONNELL. At the time he was supporting Mr. Frothingham. That was at the city election, Tuesday, December 12, 1905.

Notary MANCOVITZ. I shall rule that that is too remote.

Mr. O'CONNELL. I am engaged in cross-examination.

Notary MANCOVITZ. You know as well as I know that the question relates to a period which is too remote.

Mr. FEENEY. You are assuming that he knows too much. You are right, and, of course, he is wrong.

Q. Do you recall that this Mr. Mancovitz, now sitting as your judge, ordered John F. Fitzgerald out of the booth on election day?—A. He is not my judge.

Q. He is not your judge. He is your slave.—A. That is an insulting remark. You ought to know better than that, Mr. O'Connell. If you are a gentleman, you know better than to say that.

Q. Don't you know that what I have said is true?—A. What is that?

Q. Didn't you tell him to throw Fitzgerald out of the booth on election day, and didn't he do so?—A. I told him nothing of the kind.

Mr. FEENEY. Pardon me. I object. If my brother, O'Connell, wants to make inquiry into the last congressional election he can go ahead and satisfy himself to his heart's content. But he has gone back into the Preshe and Jim Gallivan and the days of all the rest of those men, as far as he ought to go.

Mr. O'CONNELL. I am going further. I shall show how this man attempts to dominate the Republican Party, how he regulates and controls their nomination for Congress, that he can elect a man in or out of the district——

Mr. FEENEY. What are you talking about?

Mr. O'CONNELL. And that his czardom has made him boss of the district.

Mr. FEENEY. What are you talking about—czardom? You are the only fellow around here that has defended one of the Kaiser's men. Don't tell us that stuff any more. You are the only lawyer who would defend him.

Mr. O'CONNELL. You are getting to be as cowardly as the rest of them.

Mr. FEENEY. Not at all, but the time has come when you ought to get down and ask questions relative to this contest.

Mr. O'CONNELL. You don't want me to examine him, do you? It is making you writhe a little bit.

Mr. FEENEY. Do you call this an examination?

Mr. O'CONNELL. Getting pretty white, aren't you?

Mr. FEENEY. Good God.

Mr. O'CONNELL. Didn't you say to me a half an hour ago that the bars are down?

Mr. FEENEY. The bars are down. Go ahead. But there is a limit to which you should not go, in which decency should control. You don't seem to appreciate what that limit is.

Mr. O'CONNELL. Every time I get in a little closer——

Mr. FEENEY. You have not got inside the door.

Mr. O'CONNELL. Why should you try to keep me out?

Mr. FEENEY. I want you to get through some time.

Mr. O'CONNELL. Now, that Feeney's excitement has subsided, and although he is white with rage, he is down in his seat once more, let us see. [Long pause.]

Mr. FEENEY. Well, why not let us see?

Q. Mancovitz threw Fitzgerald out of the polls, when Fitzgerald was the Democratic nominee for mayor of Boston, and Mancovitz did it because, at that time he was the warden of that precinct and had been appointed through your instrumentality. That is true, isn't it?—A. I don't know anything about it. You say so, but I don't know anything about it.

Q. Will you deny that it is so?—A. I never heard of the incident before.

Q. Do you recall the superintendent of police having been sent down to protect Fitzgerald against that assault at that time?

Notary MANCOVITZ. I have ruled that the inquiry into that matter is not competent inquiry. I will ask counsel to confine themselves to the issues in this investigation, namely, what took place at the primaries and election of 1918.

Mr. O'CONNELL. Do you suppose I am going to confine myself to that, after you have opened up these other points?

Notary MANCOVITZ. I have not opened them up.

Mr. O'CONNELL. Your men opened it up. You were told that the bars were down, and you were told to keep still.

Notary MANCOVITZ. If you will be a gentleman——

Mr. FEENEY. Well, let him go ahead.

Notary MANCOVITZ. Mr. O'Connell——

The WITNESS. Say, I have got a skin as thick as that old board. Go ahead.

Mr. O'CONNELL. You know what Shakespeare said.

Q. Now, Fitzgerald was not good enough for you at that times to support for mayor, was he?—A. I voted against him, sir; and I fought him.

Q. Subsequently you supported him for mayor, didn't you?—A. Certainly. I have a right to change my mind, although fools never do.

Q. And to change the whole ward at that time?—A. I did not change the ward.

Q. Isn't it a fact, that wherever you have been on election day, the whole ward usually follows you?—A. No, sir; I always follow the ward. The ward doesn't follow me. [Laughter.]

Mr. O'CONNELL (to the stenographer). Will you be good enough to note great laughter at that reply by Mr. Lomasney?

Notary MANCOVITZ. Mr. Stenographer, you will note what the witness says and the questions asked, and no notice will be taken of demonstrations in the room by outsiders for whom we are not responsible.

Mr. O'CONNELL. It was so apparent that what he said was not the truth, that it brought forth a great shout of derision from everyone present.

Q. The following two years you supported Fitzgerald, didn't you?—A. If it was two years after that he ran.

Q. At that time the Good Government said of him as follows——A. I don't take any stock in the Good Government people at all. So don't try to hold me to that.

Q. My question to you, sir, is this: Did you not support him two years later, in spite of the fact that the Good Government Association said of him——

Mr. FEENEY. Pardon me.

Q. (Continuing.) "His administration as mayor"——

Mr. FEENEY. Pardon me.

Q. (Continuing). "Is the city's disgrace"——

Mr. FEENEY. Pardon me.

Q. (Continuing.) "His election again would be an approval of the practices and the misgovernment disclosed in that administration. Fair campaign promises he will repudiate as before. We believe him to be politically dishonest, with no regard for the city's interests, save as they may serve his own advantage. An active enemy of clean and honest government, we most strongly urge his defeat." In spite of that you supported him as leader of ward 5,

carried the ward for him at that election, didn't you?—A. Mr. O'Connell, you make one statement. Don't put four or five questions into one question. Make one question, and ask it, and I will answer it; but I will not make an answer to a question that is not capable of an answer.

Q. Don't you want to answer that question?—A. You repeat the question and make a proper statement, and put one question by itself, and I will answer it.

Q. Don't you want to answer the question?—A. You repeat the question and make the question capable of answering it "yes" or "no," and I will answer it and give you my reasons.

Q. You understood the question, didn't you?—A. I found three or four questions.

Mr. O'CONNELL. Mr. Edgecomb, will you please read that question?

Mr. FEENEY. Let your own stenographer read it.

Mr. O'CONNELL. If my stenographer is better than yours. Now, Miss Cole, if you will read it.

The WITNESS. I think it makes three or four questions. The form is objectionable.

Q. All right, I will ask the question again. Although you had supported Frothingham for mayor in 1905, on the ground that good government—that it was for the best interests of good government—nevertheless in 1907 did you not support that same John F. Fitzgerald after the Good Government people of Boston had said of him:

"His administration as mayor is the city's disgrace."

Mr. FEENEY. Pardon me. Good government of what? You mean the Good Government Association?

Mr. O'CONNELL. Let me ask the question.

Mr. FEENEY. You don't want to confuse——

Mr. O'CONNELL. Are you so afraid?

Mr. FEENEY. Not in the least.

Mr. O'CONNELL. You act very nervous.

Mr. FEENEY. Not in the least bit nervous.

Mr. O'CONNELL. Then, won't you sit down?

Mr. FEENEY. I am willing you should read it if you will say that it comes from the Good Government Association.

Mr. O'CONNELL. You know who it comes from.

Mr. FEENEY. You bet I do.

Mr. O'CONNELL. I will ask the question again.

Q. Although you had supported Mr. Frothingham against John F. Fitzgerald for mayor in 1905, did you not support that same John F. Fitzgerald in 1907, although the Good Government people of Boston had said of him the following:

"His administration as mayor is the city's disgrace, his election again would be the approval of the practices and misgovernment disclosed in that administration. Fair campaign promises he will repudiate as before. We believe him to be politically dishonest, with no regard for the city's interests, save as they may serve his own advantage. An active enemy of clean and honest government, we most strongly urge his defeat."

Didn't you support him in spite of that?—A. Unquestionably—and so did you. [Laughter.]

Mr. FEENEY. I guess my brother was his manager, too.

Mr. O'CONNELL. Guess again.

Mr. FEENEY. You were his private secretary. John F.'s private secretary.

Q. Now, then, you said that Tague had enough in Congress when he had two terms. In spite of that you wanted to give Fitzgerald, who lived outside the district, a fourth term by electing him instead of Tague, didn't you?—A. Do you mean four terms in Congress?

Q. Yes.—A. I voted for him and worked in favor of him this last time, certainly.

Q. In other words, three terms you would not allow to Tague——A. Oh, the men. There was no comparison in men. One a cheap small little fellow, and the other larger.

Q. Who do you mean is larger?—A. I mean Peter Tague was a peanut politician. The other fellow had grown.

Q. Do you mean that Fitzgerald had acquired more money?—A. Had acquired experience; he had acquired experience; he had grown; he had broadened; he had traveled; he took a different viewpoint. He had imagination; he had capacity; he had courage.

Q. And there was no man in your district big enough to defeat him?—A. I don't say that. I gave Mr. Tague an opportunity to select any man in the district that he would say, and I told him to pick out any man and we would support him, but so far as I was concerned, as one small individual in the district, I would not support him. His record would not support him.

Q. What do you mean by saying that you gave Tague the opportunity?—A. I say in my talk I gave him that statement, in my talk.

Q. If Tague had chosen a man, would it have met with your approval?—A. If he had picked out a man in that district who was capable and competent, I would have been glad to support him.

Q. Not as ward boss?—A. No, sir; as an individual.

Q. And then would you have gotten your organization?—A. If they had agreed on him, I would have done everything I could and worked just as hard for any man he selected as I did for John F. Fitzgerald.

Q. And put your organization on the line?—A. I would have done the best I could. I don't know that I could have done it, but I would have done my best. [Laughter.]

Q. Again, the audience is convulsed with laughter.—A. They are laughing at you, Mr. O'Connell. [Great laughter.]

Q. Again they laugh at your sally.—A. Pardon me. I am not responsible for those gentlemen. I wish they would keep quiet.

Q. I don't blame you for not wanting to be responsible. They don't seem to me a very responsible set of citizens. And among them I notice many of the witnesses summoned to appear here during the time that Mr. Tague was putting on witnesses, and that they are here to-day; they were here last Friday when you appeared. Are they here?—A. Pardon me. I don't see them here at all.

Q. Pardon me. They are here.—A. Then pick them out.

Q. All right.—A. Just pick them out. Why don't you pick them out?

Q. They are here.—A. You made the assertion; now pick them out.

Q. Please answer this question—

Mr. FEENEY. Let him pick them out, Mr. Lomasney.

Q. Will you answer this question. How is it that these men won't come when they are summoned by the United States marshal, but they come when you are here? Is it due to any action on your part?—A. That is a deliberate insult. That is an insulting question.

Q. Do you know a man by the name of John W. Beatty?—A. Yes, sir; see if he is in the hall. I ask you to pick him out. Is he in the hall?

Q. He is a partner of yours in a business enterprise?—A. We are stockholders in the same concern. We are no partners.

Q. You know he was summoned in this hearing?—A. I don't know anything about it.

Q. He was here in this court room with you last Friday?—A. Yes, sir.

Q. Although he was summoned and did not appear during the trial?

Mr. FEENEY. There is no evidence of that.

Mr. O'CONNELL. Yes, there is. And his wife also was summoned, and she did not appear.

Mr. FEENEY. There is not a particle of evidence of that.

Mr. O'CONNELL. And he is probably out in that crowd [indicating group of people who are unable to get into the court room].

A. You have made the assertion. Why don't you pick him out?

Q. I don't have to.—A. Then withdraw the assertion.

Q. Do you know why he was here Friday with you, and was not here when he was summoned to appear?—A. Mr. O'Connell, I have enough to do to take care of myself.

Q. How many times have you been in consultation with him, with this same man Beatty, since this hearing started February 17?—A. Mr. O'Connell, you know better than to ask that question.

Q. How many times?—A. I suppose I have talked with Mr. Beatty two or three times a week.

Q. And you knew during that time that he had been summoned to be a witness here?—A. I knew nothing of the kind. I know nothing about it.

Q. You know that John F. Beatty is a stockholder and a director of the Beatty Construction Co.?—A. Yes, sir.

Q. And you are also a stockholder in it?—A. Yes, sir.

Q. And you are the principal stockholder in it?—A. I think I may be.

Q. In other words, you are the Beatty Construction Co.?—A. No, sir; I am not.

Q. You know that Mr. Beatty lives out at 1402 Commonwealth Avenue?—A. I don't know anything about it.

Q. You don't know where your associate sleeps?—A. No, sir; I don't chase around hunting him up.

Q. You know that he is married, don't you?—A. I understood so, but I never saw the lady and spoke to her in my life.

Q. He has told you that his wife's name was Dr. Mary Moore, hasn't he?—A. I don't like to discuss a man's wife's affairs.

Q. He told you that, didn't he?—A. That is all a matter of common knowledge. But I don't want to discuss his personal affairs. Why don't you fight men, and not women?

Q. Don't you know, Mr. Lomasney, that Mr. Beatty lives with his wife at No. 1402 Commonwealth Avenue, Allston?—A. I told you I never knew Mrs. Beatty, that I never met the lady, and did not know where they lived.

Q. Didn't Beatty tell you that he and his wife were both summoned to appear here at this hearing?—A. No, sir.

Q. He never told you that, although you saw him two or three times each week, did he?—A. No, sir.

Q. Now, let us come back a few questions. You stated that you would try to get the organization to support Mr. Tague's candidate. I want to ask you when the Hendricks Club was formed?—A. I think the organization started in 1885.

Q. Who were the officers when it started?

Mr. FEENEY. Wait a minute, please. I object to that question, "Who were the officers when it started?"

Notary MANCOVITZ. That is a matter of record in the statehouse, I suppose.

Mr. FEENEY. Is it of any consequence here?

Notary MANCOVITZ. I rule that out.

Q. Is the Hendricks Club an incorporated club?—A. The Hendricks Club, I think, was organized in 1885. It was incorporated around 1900—or around about that time.

Q. Who were the incorporators?—A. I don't know. I am not one of them, but their names are all down there on the charter. I am not one of them myself.

Q. You are a member of it, aren't you?—A. Yes, sir.

Q. Who is president of it?—A. At the present time?

Q. Yes, sir.—A. My brother.

Q. What is his name?—A. Joseph B. Lomasney.

Q. Who is the treasurer of it?—A. I am the treasurer. [Laughter.]

Q. Who is the boss?—A. We have no boss.

Q. Are you the man that collects the dues?—A. No, sir.

Q. Who does collect the dues?—A. There is a financial secretary, or some such officer.

Q. Who is he?—A. I think it is Mr. Barry.

Q. Give me his name.—A. Michael F. Barry.

Q. What is his address?—A. I think he lives around Staniford, or South Margin Street, or some of those streets.

Q. Give us the number.—A. I could not.

Q. Where does he work?—A. He is a clerk or an inspector for the city.

Q. Whereabouts is he employed for the city?—A. In the North End Yard.

Q. In the paving yard or the—A. Yes; in the paving yard.

Q. Who are the directors of the organization?—A. I am one of them.

Q. Who are the others?—A. The president, the vice president, the secretary, and the treasurer are members. Then there are several other members.

Q. Where do you keep the funds of the organization?—A. I keep the funds of the organization. [Laughter.]

Q. You mean you keep them in your own pocket?—A. I keep them always under control.

Q. Do you make all collections for the club?—A. I get turned over to me the collections, and I give a receipt for them.

Q. Did you make any account of the collections made by you last year and spent by you?—A. What collections do you mean?

Q. Political collections.—A. I made no political collections. This is assessments collections that I am speaking of.

Q. How much do you assess the members?—A. They pay a dollar a month every month.

Q. And they pay it to you?—A. No; they don't pay it to me. They pay it to the financial secretary or whatever he is.

Q. Don't you keep a bank account?—A. No; I do not. I guess there is \$13 over in the Five-Cent Savings Bank.

Q. Who has the list of that organization?—A. I guess it is down there in the clubroom.

Q. Who made up that list?—A. The men who come in——

Q. What is it made up of?—A. A man is proposed in the usual form. His name is referred to the board of directors. It is acted upon and his name is put on the roll of members. Then he pays his membership fee of \$1 a month.

Q. Is Mr. Mancovitz a member?—A. Yes; I think he is.

Mr. FEENEY. Wait a minute.

Mr. O'CONNELL. Mr. Feeney wants water now. Mr. Lomasney says that Mr. Mancovitz is a member of the club also.

Q. Who calls that organization together?—A. The president of the organization.

Q. It is called together the Sunday before election, is it not?—A. Oh, no; that is not the organization at all. That is the people.

Q. The people?—A. Yes, sir.

Q. The people are called together on Sunday afternoon?—A. Unquestionably.

Q. To take notice of and be informed of whom you have decided to support?—A. They are called together on Sunday afternoon to go into the question of who they shall support and work for and indorse among the candidates, and that has been done for many years.

Q. And the form in which that is done is as follows: They gather there in the office and wait around a little while, and then you come out and tell them what you want done?—A. No, sir.

Q. That is the way it is done, isn't it?—A. No, sir.

Q. You told them on the Sunday afternoon prior to that last election day at which Mr. Tague was an independent candidate, that you wanted them to defeat Tague?—A. I perhaps have said—I don't know what I said—but I was one of a few that addressed them on that afternoon, and I recommended his defeat.

Q. And you urged them very strongly to defeat him?—A. In the interest of the district and of the city, I urged them to defeat him.

Q. You urged them to do your will?—A. I urged them to stand by John F. Fitzgerald, the regular Democratic nominee for Congress in that district.

Q. But you had not urged them to stand by John F. Fitzgerald when he was the regular Democratic nominee for mayor.—A. That is my right, to change my mind as I pleased. Only a fool does not change his mind.

Q. Then you, as a Democratic leader—A. I am not a Democratic leader.

Q. Then, what are you?—A. I am a plain 6 o'clock Democratic.

Q. How long has your brother Joe been president of that organization, the Hendricks Club?—A. I think he has been president of the organization—there was one year when the president of the organization died, and then there was a man in between for a year, and then I think my brother Joe took it.

Q. How long has he been president of the organization?—A. Ten or twelve years. I would not say exactly.

Q. So that for the last 10 or 12 years your brother Joe has been president of the Hendricks Club, and you have been the treasurer?—A. Yes.

Q. As a matter of fact, you and your brother Joe are the whole story down there, aren't you?—A. No; not by any means.

Q. How long have you been treasurer?—A. I could not state. Ten or twelve years, but I could not say exactly.

Q. In other words, you believe that the organization ought to be in your hands and the hands of your brother Joe?—A. No, sir; nothing of the kind. I don't want to be personal at all, but you have had organizations yourself and you know the relationship which existed between you and your brother Dan. You want to feel the same in this thing. This is a political fight and whatever you want to say, say it——

Q. Are you offended?—A. No; I am not offended at anything you can say.

Q. Are you offended because I bring out the fact of your brother Joe being president of the Hendricks Club?—A. No; not a bit.

Q. Does it hurt your feelings?—A. Not a bit. But I would sooner you would kick me in the stomach than say anything about my brother, and you would feel the same way as to your brother.

Q. If I bring out the fact that your brother——A. That is all right; go ahead.

Q. If I bring out the fact that your brother is president of the Hendricks Club, why should you be offended at it?—A. He is not actively interested in politics. I will take all the blame of this matter if you want to blame somebody, and I am willing to go through with it.

Q. All right. If your brother Joe is not interested in politics, will you please tell the people of Boston what he is interested in?—A. I am not discussing that at all.

Q. You said he was not interested in politics.—A. All your contention is, and those who are associated with you, that I done this and I done that. Now, I am here. Prove it.

Q. Well, you have opposed David I. Walsh?—A. No sir.

Q. Have you not?—A. No, sir.

Q. And you stated publicly that you never would support him?—A. I supported David I. Walsh every time he was a candidate for public office.

Q. Isn't the only reason why you supported him at the last election for United States Senator the fact that you had to invoke the name of David I. Walsh in order to carry through John F. Fitzgerald's election?—A. David I. Walsh was never of any consequence to me in my life. I have my opinion of David I. Walsh and I have stated it publicly. I supported him for Senator because he personally told me that if he was elected to the United States Senate, he would stand on the floor of the United States Senate and stand up for Ireland getting its independence. And I said, "If that is so, I am with you." And I have done all I could for him.

Q. Before that you criticized him.—A. I have criticized him on the floor of the legislature; I have criticized him as a member of the constitutional convention. I criticized him for certain things he did, but that is all.

Q. And if it was not for the tremendous contest that Mr. Tague waged for Congress, and the agitation which threatened to defeat your candidate, John F. Fitzgerald, you and your men would never have supported Mr. Walsh, would you?—A. That is one of your dreams.

Q. Didn't you make that statement many times?—A. No, sir.

Q. Didn't you make that statement last summer many times?—A. No, sir.

Q. Don't you recall what you said around the constitutional convention, that you and your organization would never support him?—A. I never made that statement. Have I ever made that statement to you?

Q. You are not examining me.—A. Did I ever make that statement to you?

Q. You can not examine me. You, without question, Mr. Lomasney, are the political boss of that part of the city formerly known as ward 8, now known as ward 5, aren't you?

Mr. FEENEY. Pardon me.

A. No; I am not. There is no boss there.

Mr. FEENEY. Pardon me. If you want to ask me that same question fifty more times, why don't you do it all now and have it over with?

Mr. O'CONNELL. Now, Johnnie, sit down.

Mr. FEENEY. You have for fifty times been harping on this "boss" business and this "czar" business. Why not wind it all up?

Q. Isn't it a fact that you have been cartooned and pictured and featured in all the Boston and New England papers as the czar of ward 8 with a little crown on your head? Isn't that true?—A. I guess the papers wanted to make some money, and they used me as a mark.

Q. And you have protested against such things, have you not?—A. I never protest against the papers. I let them go ahead.

Q. Did it meet your approval, to have your picture with a crown on your head?—A. I recognize the fact that it is no use kicking against the newspapers. If you deny anything they would make your denial look worse than the first statements.

Q. You don't mean by that that the newspapers will tell an untruth about you?—A. If the newspapers make a statement of fact or put something in the paper and you try to deny it, they make big headlines of it on the front page in what they say against you, but they put the denials down in the death column, where the dead men are, and where nobody sees it. [Laughter.]

Q. I ask you if you have ever protested at any time to any of the newspapers of Boston in the last 20 years—A. Yes; I made on protest in the Storrow-Fitzgerald fight. I thought they went pretty far, and I made them apologize; and the man who made this charge of illegal registration apologized and quit on it, and so I did not bother any further.

Q. Won't you wait until I finish my question? Have you ever protested to anybody against being featured as the czar of ward 5, pictured, as you have been, sitting in the throne room with the regal robes around you and the scepter of power in your hand and with your slaves at your feet? Have you ever protested against such a thing?—A. I never protest against anything that the papers say about me.

Q. And you have been featured in that way, haven't you, as sitting in the throne room with your regal robes about you?—A. You know what the newspapers have done as well as I do.

Q. Won't you answer my question?—A. What is the use of asking that question? Arent' you an observer? Don't you know? Don't you know? Don't you eat? Don't you sleep? Don't you drink? Of course you do. What is the use of asking? What is the use of talking?

Q. That is not an answer to my question. My question is, Have you ever protested to anybody?—A. No; I have not.

Q. In other words, you have been willing that the people of your district acknowledge you and have you featured as their political czar and boss, haven't you?—A. I have not had anything to do with it. When I was coming in here to-day they wanted me to pose, and I said, "I am no poser; I never posed in my life."

Q. Now, I want you to give us a description of the throne room inside the Hendricks Club.—A. You were there yourself. You know it. [Laughter.]

Q. I am not asking you for my information. I am asking you for the benefit of Congress to describe that throne room.—A. We have no throne room.

Q. You just said I was there.—A. I said you were in the room there.

Q. Then describe the throne room.—A. It is not a throne room. It is my office—my plain, ordinary, everyday office, and I—

Q. Where is it with reference to the Hendricks Club?

Mr. FEENEY. Let him describe it. I have been there, too.

A. There is a whole floor there at 11-A Green Street. One part of it is used by society to have meetings in—the Knights of Columbus, the Foresters, the Hibernians, and different organizations; and then there is a hall, and on one side of the hall I have a side room that I use for an office. It may be from here to the wall or the window [indicating about 12 feet] and as far as you are [indicating 15 feet].

Q. About 12 by 12?—A. Well, that is more than 12 by 12. I will show you, roughly. From here to here [indicating difference from outside wall of courtroom to the nearest end of the judge's bench]. And from the wall [back of witness stand] to a foot behind the rail.

Q. That would be about 12 by 14?—A. I would not say.

Q. Where do you keep the archives? [Laughter and uproar.]—A. What do you mean by the archives?

Q. You know what I mean.—A. Please describe the archives.

Q. I mean by that, sir, the papers, the scrapbooks, and the other works of information that you referred to this morning. Where do you keep them?—A. We have a small place which we call the library.

Q. Where do you keep the "red book"?—A. The what?

Q. Where do you keep your "red book"?—A. What red book?

Q. The "red book" that you claim that you have got all the private information about people in.—A. I never heard of a "red book." That is another one of your dreams.

Q. Where do you keep your book of private particulars in reference to political matters?—A. We have a scrapbook there that we paste it in just as the papers come out.

Q. You know you are not answering my question. Where do you keep the book which has the small particulars about various men in public life?—A. We have no such book.

Q. Where is the book which you have shown various men, in which you have made notations about so-and-so?—A. I have not shown any man such a book.

Q. Do you remember pulling that book out and saying, "I have got a statement in this little red book of everything I have done for any man as long as I was in politics, and I can call on them to do what I want as a result of being able to flash on them this book"?—A. I have never made such a statement. I have been on this thing for a good many years, and to put all those things in such a book would make a pretty big book. I have no such book, and somebody has been fooling you.

Q. Where do you keep your record of contributions received by your club?—

A. We have no record of contributions except assessments.

Q. Have you a record of them?—A. Certainly; I am the treasurer.

Q. And have you kept a book?—A. I have a book.

Q. Where is that book kept?—A. Kept in my safe.

Q. Then, you have a safe down in your throne room?—A. Certainly. It is not a throne room, but an office.

Q. Who has the combination to the safe?—A. I have the combination.

Q. Anybody else?—A. I don't think so.

Q. In other words, you are the whole story, so far as the welfare of that club is concerned?—A. No, sir; I am not. If I died to-morrow the club would live.

Q. How long do you think the club would live if you died?—A. It would live, all right, because there are men behind that organization, or in that organization, who are ten times more experienced and more brains than I have.

Q. Can you mention the names of anybody in that organization who has more brains than you have?—A. Yes, sir; I don't want to mention names, but there are plenty of them.

Q. When anybody wants the votes of ward 5 they can come down and see you?—A. No; I would not say that. If anyone wants to see me they can come down.

Q. Where do they go?—A. I am there from 9 in the morning until 1 o'clock the next morning, except when I go out to eat.

Q. And there you can talk politics with them?—A. Yes, sir.

Q. And in that throne room, so-called?—A. There is no throne room. It is the private office, where you and Fitzgerald sat down and had this talk.

Mr. FEENEY. What Fitzgerald is that?

The WITNESS. John F. Fitzgerald.

A. [Resumed.] It was the time you went down and tried to trim him. It was a question of coming between you. [Laughter.]

Q. Describe the rest of the clubroom. Describe the rest of the premises.—

A. There is a front hall as you go in the door, and then in back there is a billiard hall, and in back another smaller hall. Four or five rooms, and besides that the hall where they have these Hibernian and different organization meetings.

Q. Who owns that building?—A. I don't know. I pay rent for it.

Q. Who do you pay rent to?—A. We used to pay it to F. C. Welch; but I think he is dead, and we pay it now to C. W. Whittier.

Q. How frequently are assessments levied in that club?—A. Not more than \$1 a month. We never levy any assessments besides the regular requirement of \$1 a month, and that is paid. We have never run dances. We have a good treasury all the time, and we never went bankrupt.

Q. Is the organization confined to Democrats living in ward 5?—A. No; it is not. Any respectable man who comes in there can join. We are organized, you know, for social welfare, and charitable work.

Q. Is Hammond T. Fletcher, the Republican nominee for Congress in that district, a member of your organization?—A. No, sir.

Q. He is around there quite often?—A. He comes there possibly twice a year.

Q. He comes around quite often?—A. If he wants to see me he comes in like you or any other gentleman.

Q. He goes in and out of your office as he pleases?—A. He sees me the same as you do.

Q. The Republican nominee came to see you several times this last fall?—A. I don't know.

Q. Several times?—A. He may have.

Q. Is there any reason why he should have held anything in common, between him, the Republican nominee in that district, and you, the leader of the organization?—A. Can't a man speak to a man if he meets him, because he is a candidate of another party?

Q. Will you answer my question?—A. Of course, there is no reason why I should not speak to him.

Q. You say you are a "plain 6 o'clock Democrat"?—A. Yes, sir.

Q. How many years were you a member of the board of aldermen?—A. Six years I was there.

Q. How many years were you a member of the house of representatives?—A. I think 12 or 13, but I would not be sure. You count them up.

Q. How many years were you a member of the Massachusetts Senate?—A. I was, for two years.

Q. And for two years you have been a member of the Constitutional Convention?—A. Yes, sir.

Q. In other words, from 1893 down to the present time, you have been most of the time an officeholder?—A. I have been for that number of years a member of the different bodies you have stated.

Q. And to each one of them you have been elected as a Democrat?—A. To each one of them I was elected as a Democrat by the people of that locality, or city, or the district.

Q. And during that time your brother Joe was a member of the common council, was he not?—A. Yes, sir.

Q. And also a member of the house of representatives?—A. Yes, sir.

Q. How many years?—A. I would not be sure; four or five or six; I don't know.

Q. And how many years a member of the Massachusetts Senate?—A. Three years, I think.

Q. And then, when he was not holding office as a member of the house or senate he has been acting as an officeholder of the city of Boston, being superintendent of bridges for a number of years. That is true, isn't it?—A. He was deputy superintendent of bridges. I think he was a deputy under the superintendent of streets, in charge of the bridge department.

Q. After getting out of the Massachusetts Senate in 1912, he has since then been a member and chairman of the schoolhouse commission of the city of Boston?—A. He was a member of the schoolhouse commission of the city of Boston for several years.

Q. And he is now the chairman of the schoolhouse commission for the city of Boston?—A. Yes, sir.

Q. So that you as treasurer of the Hendricks Club, and your brother as president of the Hendricks Club for the last 25 years, have held political offices, all of which you secured under Democratic nominations?—A. Certainly.

Q. And his appointments to office as superintendent of bridges and as schoolhouse commissioner have been made by Democratic mayors?—A. Certainly.

Q. Now, you dictate who the nominees are for the legislature in your ward, don't you?—A. No, sir.

Q. The men whom you have supported have always been elected?—A. The man whom the organization supports generally wins.

Q. Won't you answer my question?—The men whom you have supported generally win?—A. The men whom the organization supported.

Q. Whether Republican or Democratic?—A. We don't support Republicans.

Q. Didn't you support Republicans whom I have mentioned?—A. Certainly; but that was years and years ago.

Q. No man has been allowed to win in that district who has not had your support?—A. No man has ever been allowed to win in that district who did not have votes enough.

Q. And he could not get votes enough without your support, to defeat anybody else?—A. I don't know anything about that. I know I generally voted for the winning man.

Q. In other words, your sign of approval on a man meant that the organization would support him?—A. No, sir.

Q. Has the organization which you mention ever disagreed with you on any man whom you had chosen, so that the disagreement went to the polls?—A. Yes, sir.

Q. Who is the man?

Mr. FEENEY. I object. I think we have gone far enough. I object to that question, Mr. Notary, and ask for a ruling.

Notary MANCOVITZ. The question—

Mr. O'CONNELL. What is the matter about the bars? Are you putting them up again?

Mr. FEENEY. I want to get through. You won't get through until the 1st of July, when they are going to shut up the bars for keeps.

Mr. O'CONNELL. That is a poor joke. You are getting groggy.

Mr. FEENEY. You are getting groggy.

Mr. O'CONNELL. Your statement of it does not make it so.

Q. Now, as a man that you have supported on election or primary day in your ward has carried the ward, has he not?—A. I have no ward, sir.

Q. Well, you are bandying words with me now.—A. No, sir; I am stating facts. Ask a proper question.

Q. Every man whom you have supported in ward 8, of the present ward 5, has always carried that ward?—A. There is some question whether Dorr or Gallivan carried the ward. I don't know. But outside of that, I think that is so.

Q. How many years back did that go?—A. I don't know.

Q. It goes back for 30 years, doesn't it?—A. I don't know how many years.

Q. It goes back to the time when the Hendricks Club was formed, doesn't it?—A. Oh, no, no, no.

Q. How many years ago was the Hendricks Club formed?—A. You see, we were formed in 1885, and of course that is 33 years. I have a pretty good memory, but it is pretty hard for me without going over the book to be sure of a case so that I don't want to give assent to what you say.

Q. You said Harry Atwood was elected in 1888?—A. We supported him two years and then we were against him.

Q. And outside of that no man has ever failed of election?—A. I don't think any man has been elected—that any man who has the Democratic city committee has failed to be elected.

Q. Whether Republican or Democratic?—A. There is no chance now for a Republican. That year you speak about was the Bryan year, was the last year, and they have had no chance since.

Q. And if a man wants to run on a Republican nomination you can switch that ward any way you want to?—A. I can not do anything of the kind. The people switch that ward any way they want to, not the way I want to.

Q. What business are you in?—A. I am in the real estate business.

Q. Where?—A. In my office.

Q. In the throne room?—A. No; at my office, 11a Green Street. It is a modest office; it is no throne room.

Q. In what was described here as the throne room?—A. What you described.

Q. That is your place of business?—A. Yes, sir.

Q. How long have you been in that business?—A. Since 1883, when I quit the board of health. I immediately went into the real estate business.

Q. Outside of that real estate business, your business is public affairs?—A. No, sir; I have stock in corporations.

Q. Public affairs?—A. I take an interest in public affairs.

Q. Are you a big stockholder?—A. I own stock in certain corporations.

Q. Public-service corporations?—A. No, sir.

Q. You are able to live as a result of your investments in stocks?—A. I am able to live as the result of my labor.

Q. You don't labor as a stockholder?—A. I have to watch the stockholders' proceedings to see that I get dividends.

Q. Isn't it a fact that from 9 a. m. to 1 a. m. of the next morning you are playing politics?

Notary MANCOVITZ. Pardon me. I don't think that is fair.

Q. Isn't that what you said? Didn't you say that?—A. I said that part of the day I am down there, and anyone that comes in can see me if they want to.

Q. What part of the day do you devote to business?—A. I devote all of the day to business.

Q. And what part of the day do you devote to politics?—A. I devote part of the night to politics and part to business. I am not finding fault with myself.

Q. You don't mean to tell us you are devoting yourself to business until 1 a. m.?—A. I might say that that is one of the times. You and I as business men know that one place we are business men, another place we are lawyers, and another place we are interested in politics.

Q. I suppose you are also a large holder of real estate?—A. A few parcels; yes, sir.

Q. And you have to take care of your real estate holdings yourself, I suppose?—A. Yes, sir.

Q. Are they large?—A. They are modest; pretty modest.

Q. You are pretty much interested in the contracting business?—A. No; I am a stockholder, as I told you, in the Beatty Construction Co. and I am half owner of a ledge that I have leased. That is all I have in corporations. I own stock in some trust companies.

Q. Are you interested in the Kiley Co.?—A. Not a particle. I know the man—

Q. Being interested in this contracting company, naturally you have to spend a good deal of time in getting contracts from the various municipalities of the

State for the Beatty Construction Co.?—A. I never mixed in it; in that part of it, at all. He is the practical man. It is up to him.

Q. Who is? Peter?—A. Yes, sir.

Q. He is the practical man?—A. He is the head of the concern and runs the corporation.

Q. And you are the largest stockholder?—A. I am.

Q. And the principal stockholder?—A. I am one of them.

Q. And the others in it are simply figureheads?—A. No; there are no figureheads. I am in there with him, and it is a substantial corporation.

Q. How substantial is it?—A. Go and look it up and you will find out.

Q. I am asking you.—A. I think we can get 100 cents on the dollar if we wanted to borrow money.

Q. To what extent can you get 100 cents on the dollar?—A. We can get it in any bank, I think.

Q. You said it was substantial. Tell us what you mean by the word "substantial."—A. I mean that its credit is good.

Q. Give us what it means in the total amount.—A. What do you mean by the total amount?

Q. You say it is a substantial organization. What is its capital?—A. It has a capital of \$6,000, and I think we have \$20,000 in assets. That is \$34,000 to the good, and I think that is a pretty substantial concern.

Q. Do you own ledges?—A. I do; yes.

Q. Is that an asset of the Beatty Construction Co.?—A. No; that is a private ownership, and I lease it.

Q. Now, not only as boss of ward 5, but as a dictator of the Democratic Party throughout the city, you have been extremely active?—A. I am neither a boss nor a dictator, and I object to the term.

Q. Do you recall the time that you foisted Donald J. Kiley on the city of Boston as president of the common council, when you did not even have a majority of the council to vote for him?—A. I never foisted him. Never foisted him or anyone.

Q. Didn't you buy the Republican nomination for Donald J. Kiley?—A. I never bought a nomination for anybody.

Q. Didn't you carry him through to the president of the common council when he did not have votes enough to get a majority; and didn't you participate in his usurpation of the presidency of that body to the scandal of Boston?—A. I did not.

Q. Were you not up there in the city council chamber at the time that that usurpation was accomplished?—A. I was in an adjoining entry when he was a candidate.

Q. And you were managing his fight in that affair and you guided and directed him to seize the gavel?—A. I did not.

Q. You were right there.—A. I was not.

Q. You said you were in the entry room.—A. I was in the little entry.

Q. That was close to the council chamber?—A. It may be in the corridor.

Q. You were right outside?—A. I don't think I was there that day of the gavel incident at all.

Mr. FEENEY. I wonder when you will get down to this hearing.

Q. You believe, I understood you to say, that you are uncontrollable in politics?—A. As much as a man can be.

Q. And any man that is opposed to you meets with your opposition, unless he can see you and come to terms. That is true, isn't it?—A. No, sir; there is no seeing me.

Mr. BROGNA. Hand a drink of water to the witness.

Mr. O'CONNELL. Don't be slipping him any papers, such as you did last time.

Q. As a result of the fact that Mayor Quincy would not give you the patronage you wanted, you opposed him in everything, although he was the Democratic mayor of the city of Boston?—A. I did not.

Mr. FEENEY. Pardon me. Don't you think you had better get down to this hearing? We will have Preshe and Gallivan and everybody else. Why don't you get down to this hearing? It is near 4 o'clock.

Mr. O'CONNELL. Don't be worried, Johnnie.

Mr. FEENEY. You have been talking about it so long.

Q. As a result of Mr. Quincy's refusal to yield to you, you have opposed him in everything ever since?—A. I have not.

Q. You went to the legislature to carry on your fight against Mayor Quincy, did you not?—A. I went to the legislature to repeal the board of apportionment

act, which I believe was a bad thing for the city of Boston, and the legislature repealed it.

Q. And your fight was against Mayor Quincy?—A. No; it was to redeem the city from that thing, and the legislature did it.

Q. In other words, you were able to make a Republican legislature do things as against the Democratic mayor of the city. That is true, isn't it?—A. No; when the Republican legislature investigated the thing they thought that the act was not in the interest of the city, so they repealed it.

Q. That was done as a result of trading votes which you controlled for various measures in which the Republican Party was interested, receiving from them in return the Republican support in the legislature in your efforts to defeat the propositions which Mayor Quincy and the Democratic Party of Boston were interested in.—A. I never made a trade of my vote in the legislature in my life.

Q. You have the control of that ward 5, so that you are able to designate certain precincts on election day to support different members on different slates?—A. The organization does that. I don't do it.

Q. Tell us how the organization does it.—A. Why, they sit down and they say, "Well, here is a man that is a candidate. He is a pretty good fellow. He is competent; he is capable"; and they go over the men and some people are interested in them. There may be some reasons, some little favor done in the past, and they designate them. The question is to help the men whom you believe are the best, and at the same time to be fair; and they do that. That is pretty easy. The organization does that.

Q. And they allot certain precincts to be given to a certain candidate and certain precincts to be given to another candidate?—A. No, sir; they say, "Well, we will work for such gentlemen as John Jones, or John Smith, in that precinct, and we will work for Michael Jones or somebody else in the other precinct." The organization does that.

Q. Who is "they" that you refer to?—A. The committee.

Q. Who is the committee that voted on the matter of your supporting John F. Fitzgerald against Peter F. Tague?—A. They were all-canvassed, and everybody was sounded on it, and what was the proper thing to do, and I suppose the desires of 400 or 500 were felt and canvassed and represented in it. The Jewish people go down and find out how the Jewish people feel. They found among the Jewish people a tremendous sentiment about not being used right, and they report that, the same as to the Italian sections and other sections.

Q. I asked you who "they" were, the organization, the ward committee?—A. The organization, the ward committee.

Q. Who are they?—A. There are 10 members. I think last year they had 16. Then there is an auxiliary Jewish committee, and another committee of about 25 that will be enlarged. Last year we had 35.

Q. Don't you want to answer my question?—A. I will answer your question. I am giving you my answer.

Q. I asked who are "they." Give me the names of "they."—A. The organization, the ward committee.

Q. Don't you want to name them?—A. Get the list of names.

Q. Get the names of what?—A. Get the organization, the ward committee names, and they are a part of it.

Q. Don't you want to give me those names?—A. I gave you the best I could.

Q. Are you afraid?—A. I am afraid of nothing.

Q. Are you afraid to give the names?—A. I will let you find out the names because I don't want to give names.

Q. Are you so unfamiliar with the ward committee in that ward that you can not tell us their names?—A. I can not tell them offhand.

Q. Are they dummies?—A. No more than you or I.

Q. Are they so insignificant in that ward that you can not remember them?—A. No, sir.

Q. How many do they number?—A. They number 10 now.

Q. Can you remember the 10?—A. I can remember this year's 10, but last year there were 16.

Q. Can't you give the names of the 10 who decided on John F. Fitzgerald against Peter F. Tague?—A. I told you that the ward committee this year consisted of 10.

Q. I am not asking you about that.—A. I don't—restrain yourself and be a gentleman and you will lose nothing. Don't you think that by frowning at me you can scare me.

Q. What are you afraid of?—A. Afraid of nothing.

Q. Tell us the names.—A. We have got along admirably——

Q. Tell us the names.—A. I told you I would get the names.

Q. Give me the names of the 10 men who helped you decide on John F. Fitzgerald against Peter F. Tague.—A. I can give you the names of a good many men.

Q. Give me the name of a single man.—A. I won't give you the name of a man. If you asked for the information in proper way, you would get it. [Laughter.]

Q. Sometimes you support all the candidates for the city council and sometimes you give the only certain precincts in your ward. That is true, isn't it?—A. To-day we have no party designations, of course you know, at city elections. That has been wiped out. There is no question about politics in it.

Q. In other words, you swap with everyone?—A. I swap with no one.

Q. Well, your ward swaps with everyone?—A. When we have a candidate for office, for the board of aldermen or the city council, we have done the same as they do in every ward and district in Boston. We supported John Jones here, and they supported John Smith out there. We did that the same as you did.

Q. Who are "we"?—A. The organization.

Q. Who is the "organization"?—A. The ward committee, with the auxiliary committee.

Q. Who is the "auxiliary committee"?—A. Last year it consisted of 16, and this year it consisted of 10. There is a Jewish committee of 8 men, and then there is an executive committee of 8 more men.

Q. Are they all members of the Hendricks Club?—A. I think they are. They are the big men of the organization.

Q. And they are subsidiary to the organization?—A. No.

Q. Subsidiary to the orders of yourself and brother Joe?—A. No; there is nobody subsidiary.

Q. Who is the person they are subsidiary to? Who is the central power in that club?—A. There is no central power. They are all equal. The people. Vox populi.

Q. Now, then, I am going to find out from you, if you will be good enough to testify, who it is that has assisted you in the choice of the men you have supported. I want you to give me now the names of the men who helped you to decide on supporting the Republican candidacy of Louis A. Frothingham against John F. Fitzgerald, the Democratic nominee for mayor.—A. That is a good while ago; there was a universal sentiment in the organization that it was best to do it.

Q. Give me the names of the men who helped to do that.—A. Don't you know it is pretty hard to recall names of men?

Q. Give me the names of any men who helped you decide to support the candidacy of John B. Dorr against the candidacy of James A. Gallivan.

Mr. FEENEY. Are you going back to Dorr again? Let us get back to the Tague question.

A. I can not give you the names. That is a long time ago. I have some limitations.

Q. As a matter of truth, Mr. Lomasney, nobody assists you in arriving at a decision on who you or the organization is going to support.—A. I guess if you lived down there, you would find they did.

Q. Do you mean to say that there is a single man down there who tells you who you are to support?—A. I guess you would find out that there are.

Q. How many of them are there?—A. There are 200 or 300 men, all of whom are responsible men and whom you will respect and I do.

Q. Who are they?—A. For your edification I am not going to make a mark of any man who is a qualified voter which is a reflection on that man. It is a free country.

Q. Will you be good enough to bring to the next meeting the membership list of the Hendricks Club?—A. I don't think I will.

Q. Why not?—A. Because I will not satisfy you to that extent.

Q. I demand that you produce it.

Mr. FEENEY. I object. We have received his little demand, and now we will go ahead.

Q. Do you mean to say you will not produce the papers of this political organization which has so much to do with the political affairs of ward 5?

Mr. FEENEY. Pardon me. I object to the request couched in the words "demand that you produce" any list of any organization, and I ask for a ruling upon it.

Notary MANCOVITZ. I sustain the objection. Note Mr. O'Connell's exception.

Q. We demand that you produce that list.—A. I have heard that demand.

Q. We ask you to bring it in. Are you afraid to bring it in?—A. I will put that demand on the table. I am afraid of nothing.

Q. Is that what you do with the candidacies of the people who come down there?—A. That is what I do with your demand.

Q. You treat candidacies the same way, do you?—A. I put your demand under the table in that way.

Q. Then you don't want to bring anything in the way of papers to support the statements that you make in reference to the manner in which the choice of candidates is made or promulgated down there in your ward kingdom?—A. There is no ward kingdom there.

Q. That part of the city over which you reign?—A. You are in it now, yourself.

Q. Won't you tell us whether there are any other regents that preside there by yourself?—A. There are no regents that I know of in this country.

Q. Aren't you willing to let us have the names of anybody else that help to decide the political fate of men who happen to be voted for in ward 5?—A. I told you who had the say in that proposition, and that is enough for you.

Q. How many men in that organization live in ward 5?—A. I guess they all live there.

Q. How many of them live outside?—A. A great many of them live there, and die there, and were born there. Do you understand?

Q. Do you continue voting on the names of those who die there?—A. No; they might have done that in Dorchester in your time, but not down in ward 5.

Q. Could you tell me how many members you have got in that club?—A. I would not say. I think we may have 250 or 300 members.

Q. Nearly all city employees?—A. I should say one-third of it nearly.

Q. Isn't it larger than that?—A. I don't remember. I don't think so, sir. I never counted them.

Q. So that the total income from the club is about \$250 a month?—A. Well, there is an income from that, and then there is an income from the hall.

Q. How much is the rental of the hall?—A. They get \$5 a week from these different organizations.

Q. How much is yours?—A. We pay \$110 a month.

Q. How many members live outside the ward?—A. I don't know of any members living outside the ward. We always try to have the men who belong to the organization live in the ward.

Q. Is Pat McNulty a member of that organization?—A. There is no such name. There is a Patrick J. McNulty.

Q. You know that he lives in Beachmont?—A. I do not.

Q. Do you know Robert McCurdy?—A. Yes, sir.

Q. Don't you know that he lives outside of ward 5?—A. He lives on Chambers Street.

Q. You mean he votes there?—A. He lives there, and has an apartment there.

Q. Do you know Henry Gray?—A. Yes, sir.

Q. Where does he live?—A. I think he lives on Burroughs Place.

Q. Is that in some property owned by you?—A. No, sir. I own property there, but he does not live in my property.

Q. Don't he live in Jamaica Plain?—A. You asked me, and I told you where he lived.

Q. Do you know Hugh Magrath?—A. Yes.

Q. Do you know whether he is a member of the club?—A. I don't want to say for sure. I don't know whether he is or not.

Q. Do you know where he lives?—A. No; I don't know.

Q. Do you know Joseph A. Raley?—A. No, sir.

Q. Do you know Joseph Raley?—A. Yes, sir.

Q. A relative of yours?—A. No, sir.

Q. Of your brother Joe?—A. Yes, sir; a brother-in-law of his.

Q. Where does he live?—A. He lives in Young's Hotel.

Q. That was the 1st of April, but outside of that, where does he live?—A. I don't know.

Q. What?—A. I don't know.

Q. I don't blame them for laughing at you. Do you know John F. Corcoran?—A. Yes, sir.

Q. Where does he live?—A. In Burroughs Place.

Q. In another house owned by you?—A. No, sir; we own it jointly.

Q. He does not live there throughout the year?—A. Certainly he does.

Q. What?—A. I think he does.

Q. Don't you know where he lives?—A. I don't know.

Q. Don't you know he is never at home in that place?—A. I don't know. I never watch his home.

Q. Don't you know that he lives at 14 Auburn Street, Charlestown?—A. I don't know. I never called on him in his home, or called on him at 14 Auburn Street.

Q. Do you know John I. Murray?—A. Yes, sir.

Q. Where does he live?—A. United States Hotel.

Q. That was on the 1st of April?—A. I don't know.

Q. And the rest of the time he lives in Dorchester?—A. I don't know where he lives. He is a single man.

Q. Charles Hart?—A. I don't know where he lives.

Q. Patrick J. McNulty?—A. He lives on Lynde Street.

Q. That is on the 1st of April?—A. I don't know.

Q. The rest of the year he lives in Beachmont?—A. I don't know where he lives.

Q. He is one of the men who has charge of a precinct in ward 5 on election day for the Hendricks Club?—A. He is one of the men.

Q. Do you know where Michael F. Fitzgerald lives, a brother of the doctor?—A. I don't know.

Q. Do you know that he lives at Winthrop?—A. I don't know.

Q. Do you know where Israel Mancovitz lives?—A. I think he lives in his father's house on McLean Street.

Q. That is, the 1st of April?—A. I don't know about that.

Q. Aside from that, he lives elsewhere the rest of the year?—A. I don't know.

Q. Do you know Joseph Santuosso?—A. I don't know where he lives.

Q. Do you know where he lives the rest of the year?—A. No, sir. If you want some more of these gentlemen, I will tell you a few more.

Q. Do you know C. J. Sullivan, who has charge of the morgue?—A. I don't know.

Q. Most of these men that you mention are members of the Hendricks Club?—A. I don't think so.

Q. How many are?—A. Will you let me see the list?

Q. Is McCurdy a member?—A. Yes, sir.

Q. Jeremiah McCarthy; is he a member?—A. Yes, sir.

Q. He lives at Winthrop?—A. He lives at McLean Street.

Q. The 1st of April. How about the rest of the year?—A. That is his residence. I don't know where he lives; I have not been to his house.

Q. He lives in Winthrop?—A. No; I don't know. I have never been to his house in Winthrop.

Q. Do you know that all these men whom you know so intimately were summoned and did not show up here to answer the summons issued by the notary, Mr. Berman, and served by the United States marshal?—A. I do not.

Q. Have they conferred with you?—A. No, sir.

Q. Didn't Mr. Beatty tell you when he was there that he had been summoned as a witness and would not come?—A. No, sir.

Q. You knew that this hearing had been going on?—A. I saw it in the papers.

Q. You saw the notice there issued, signed by the United States district attorney, Mr. Boynton, advising everybody who was summoned to come here?—A. I did not see that.

Mr. FEENEY. You didn't know they called in the cops?

The WITNESS. No, sir.

Q. Let him tell the truth.

Mr. FEENEY. Go ahead.

A. I tell you very frankly I don't believe in calling in cops. It is bad business.

Q. Inasmuch as you helped Mr. Cunningham after Mr. Cunningham had warned you that the absence of witnesses who were summoned was significant and would be considered adversely against the candidacy of John F. Fitzgerald, will you tell me why it is that you have not aided in bringing forth witnesses

summoned here who were also witnesses before the ballot law commissioner?—A. I am not a servant for this body or any other committee. Why should I be a servant and go around doing a policeman's work, bringing in witnesses, or doing a marshal's work.

Q. I thought you sought the prevalent of truth?—A. I do.

Q. Why didn't you do it?—A. Because I was satisfied at that time you were all laboring under a delusion. My friend Mr. Cunningham talked frankly; then I saw the situation as it was, and I did all I could to remove the delusion.

Q. Isn't the truth this: That after Mr. Cunningham said that you and Mr. Albers, the attorney for Mr. Fitzgerald, went over to Mr. Cunningham and the commission and came to an understanding that if the men were brought in there would be no cross-examination of the witnesses?—A. Mr. Albers and myself never had a conference with the commission; that is, when I was present.

Q. Didn't you step over to the commission in the presence of Mr. Goodwin, and didn't you and Mr. Albers have a conversation in which you asked if there would be any cross-examination, and at the conference they agreed that there would not be any?—A. I was not present when any such thing took place.

Q. Wasn't it after the Cunningham statement that their absence would be considered adversely that you got them to come in?—A. No, sir; he never made such a statement. Read the statement that he made.

Q. We will put it in.—A. I never heard the word "adversely." That is another matter.

Q. Are you willing now to have the witnesses in?—A. What witnesses?

Q. The witnesses sworn here.—A. I am not willing to do anything to help you or Mr. Tague to bring any woman in here to tell the history of her husband, or expose the home or family skeleton. I don't believe in that kind of examination. Mr. Tague can not afford to have everything told about him, and you can't afford to, and I can't afford to—that you have been living in Brookline and voting in Dorchester. You do the same thing. You never had any intention of abandoning your domicile in Dorchester. You went out to Brookline and voted three or four times in Boston while you were living in Brookline, and you were not an illegal voter. But why do you want to apply it to these other men, when it is all right for you? It is all right for Daniel, Joseph, or John to do one thing, but it is all wrong when somebody else does it.

Q. Now, you have made a speech. What is it all about?—A. To show why I would not join with you to compel a man to tell his life's history, or to put a woman on the stand so that you could ask her, as you did the other day, "Do you sleep with your husband?" Wasn't that a nice question to ask a woman in this court room? I was told you made that statement. Do you suppose I would ask any decent woman who lives down there to come up here and be subjected to that kind of examination? No, sir.

Q. Have you any other speech to make?—A. No, sir.

Q. Now, my question is this: Will you help to bring in here these witnesses, so that they may be examined about their registration and voting in ward 5, which we charge is illegal, and the names are as follows: Robert K. McCurdy, who is a member of your organization and one of your friends; Jed McCarthy, otherwise known as Jeremiah E. McCarthy, a court officer of the city of Boston?—A. Jeremiah J. McCarthy.

Q. A member of your organization and one of your friends. Will you help to bring in Henry Gray, a man who has been your political helper and helped meet for many years?—A. Henry R. Gray.

Q. Will you help us to bring in Hugh McGrath, whom you know very well, and who may or may not be a member of your organization? Will you help us to bring in Joseph A. Riley, of your organization? Will you help us to bring in John F. Corcoran, your dear friend, crony, and associate? Will you help us bring in John R. Murray, your brother's relative and a court officer? Will you help us to bring in Charles Clark, of your organization? Will you help us to bring in Charles M. Halloran, whom you know? Will you help us to bring in Patrick J. McNulty, whom you say is one of those who represents you in the precinct on election day, and who lives in Beachmont? Will you help us to bring in James Sullivan, whom you know? Will you help us to bring in Michael Fitzgerald, the brother of John F. Fitzgerald, and a police officer in the city of Boston? Will you help us to bring in Israel Mancovitz, a brother of Mancovitz, who is sitting here as your notary, and who is also one of your precinct officers? Will you help us to bring in Joseph Sontosuosso, whom you say you know very well, and who lives in East Boston, and whom you know

very well? Will you help us bring in C. J. Sullivan, who keeps the morgue and who lives in your ward; and will you help us to bring in over 200 more, whose names I have and which we will furnish you, and who vote illegally in your ward, and not one of them women?

Mr. FEENEY. And if they did come in, under all the rules their evidence would be inadmissible. My friend always winds up with this 200 or 300 mysterious people. Just at the present time I am conducting the hearing, so far as Mr. Fitzgerald is concerned. If these witnesses come in, they will have no right to testify at any time while I am conducting the hearing. If any more witnesses come in, they will come in simply under the statute which provides that their testimony may be given in rebuttal of evidence which I may offer. Therefore, Mr. Lomasney, I want to say at this time, no matter whether you are willing or unwilling, that I am going to object to anybody else testifying except such witnesses as I may call, until I close the Hon. John F. Fitzgerald side of the case. Then, if there is any evidence which any of these witnesses may have to give in rebuttal of that, my brother has all the opportunity which the laws of the Commonwealth and the laws of the United States give to him to produce and force the production of such witnesses.

Q. I ask you to answer, sir.—A. Mr. O'Connell, you and your type have been talking around this city about fraud for years.

Q. Won't you answer my question?

Mr. FEENEY. He is answering your question.

A. Your client started out in this campaign by notifying the people of this district that he would call upon the United States authorities; that he would have the secret service officers at the polls; that he would have 250 men charged with illegal registration before the election-law commissioners, and that is the proper tribunal created by statute to try those cases. You were notified by the board of election commissioners to come in there and present your case. It is pretty hard to get a man's name on the voting list. But the man when he gets his name there has some legal rights and is protected, and it requires his presence or sufficient prima facie evidence before it will be taken off. You folks did not appear at the board of election commissioners previous to this election and challenge these men's votes, introduce your evidence, put forward your spies and your stool pigeons. Consequently, no matter what happens now you have lost your right to do that.

Q. You are afraid to answer the question, aren't you?—A. No, sir; I am not.

Q. Then why don't you answer it?—A. I am not afraid to answer any question. I am not afraid to answer anything.

Q. What are you afraid of?—A. I am afraid of nobody.

Q. Then answer the question.—A. I will not obey your insulting domineering orders.

Q. You are afraid, are you?—A. I am afraid of nothing.

Q. You are afraid to help the United States Government to rightly determine whether a man is rightly elected to Congress or not?—A. I know the United States Government is not interested in seating a grafter in Congress.

Q. Won't you give your assistance to bring before us these men?—A. I give you just the assistance that my presence here on the stand gives you. No more, and no less. I refuse to be your servant and obey your orders.

Q. Then, you won't advise your friends and cronies to come in and give us the evidence necessary?—A. I advise any man, before he goes to court to testify, to talk to a first-class lawyer. I am not one.

Q. Have you advised these men to consult with a lawyer, if they were summoned?—A. No, sir.

Q. Just what do you mean by that statement, that you would advise them to do that?—A. I said I would advise no man to come into court and answer the summons in a proceeding like this, when you and men like you want to bare their private skeletons and family history, without the advice of a good lawyer.

Q. Who have you so advised?—A. I have advised no one.

Q. Is that to give a public warning to men not to come in unless they see a lawyer?—A. No, sir; it is not. You gave all the warnings.

Q. Then, you have advised no one at all?—A. No.

Q. Then, what are you talking about?—A. I am talking about what you are talking about.

Q. You know these men have refused, don't you?—A. I don't know.

Q. How many of them do you know have refused?—A. I don't know anything about any of them.

Q. What?—A. I don't know anything about it.

Q. Are you telling the truth?—A. I am, absolutely.

Q. Do you say that you don't know anything about men like Corcoran, with whom you talk almost every night in the year?—A. That is not so.

Q. When did you talk with Corcoran last?—A. I think last week.

Q. What night?—A. I think it was around Thursday or Friday. I would not say for sure.

Q. When was the time before that?—A. I think it was about 10 days before that.

Q. Was that at the time he was summoned?—A. I don't know when he was summoned. I don't know anything about it.

Q. Did you discuss with him the fact that he has been summoned?—A. I did not.

Q. Have you talked with anybody else in the last 10 days in that list that I have mentioned?—A. No; not that I recall. I may have. I may say "Hello" to a man or pass the time of day.

Q. You have discussed the law on this subject, haven't you?—A. I have looked at the law; certainly.

Q. Why did you look up the law on the rights of witnesses to come before this hearing?—A. I always like to look at the law.

Q. Why did you like to look at the law about witnesses?—A. To find out.

Q. Wait a minute. Why did you look up the law about witnesses when you had not been summoned as a witness yourself?—A. Is it a crime to look up the law?

Q. I am asking you for information.—A. Is it a crime to look up the law?

Q. Why did you look up the law in regard to witnesses?—A. I did not say I did do that in regard to witnesses.

Q. Didn't you say a moment ago that you looked up the law in regard to witnesses?—A. No.

Q. Didn't you say so?—A. You asked if I had not looked up the law.

Q. Didn't you read that particular section?—A. The whole law about the congressional contest.

Q. You are not a lawyer?—A. No; I am not a lawyer, yet I take pleasure in putting a lot of these men who are lawyers overboard.

Q. And Members of Congress?—A. There is no Member of Congress in this city that I know of who is a lawyer.

Q. Putting them overboard, you said.—A. That is far away from what I said. Mr. Tague is not a lawyer, Mr. Fitzgerald is not a lawyer, and Mr. Fletcher is not a lawyer.

Q. When you say "putting men overboard" what do you mean?—A. I will tell you. I have seen lawyers like you and other men stand up and bully rag and bulldoze men, and try to look fierce, when right down in their hearts they are just the same as any other human being; and I have intelligence enough to know that that class of men are just as shallow as the sea at low water, so I know how much attention to give to them, so that is just the way I am treating you. [Laughter.]

Q. I thank you for the compliment of saying I am as shallow as the sea.—A. You can always pick me up on a word, but there is always a lot of sound sense, and it always cuts. You know the sea is deep and the sea is shallow.

Q. In other words, you are pretty well satisfied with yourself?—A. I will tell you. I feel this way, that I am no saint, that I went through this life and had the hard knocks; I ran up against various interests, and I have stood by and looked out for myself. I pay a hundred cents on the dollar, and I ask no favor of any man, and try to respect any man and give him courteous treatment, and that is all I want—a square deal.

Q. If that is so, let us see. You say you want equity to apply to this case, and you want to come in here with clean hands?—A. I say Tague should come in here with clean hands.

Q. Don't you want to come in here with clean hands?—A. I have got them [displaying hands]. Look at them.

Q. Don't you want to help this court to get all the evidence that it possibly can, to clear up this matter amicably?—A. Unquestionably.

Q. Then, why shouldn't you help to bring these men in here?—A. Why should I want to become your servant after you have designated certain people as slaves?

Q. You have been informed that the district attorney advised people to come here?—A. No; I was not.

Q. Didn't you know that?—A. No; I did not.
(Recess.)

Mr. O'CONNELL. I am informed that the messenger has not brought back the paper that I referred to, and at this time I will ask permission to read into the record the statement of United States district attorney for this district which was published in the Boston dailies, such as the Post, Herald, and Globe, advising all who had been summoned to attend this hearing to be sure to attend, stating that in his judgment it was wise for them to do so.

Q. Now, Mr. Lomasney, did you see the daily papers during the last three weeks, while this hearing has been going on?—A. Some of them; yes, sir.

Q. Did you not see the issues on two different dates of the Boston daily papers that I have mentioned, any or all of them?—A. I think I saw them.

Q. Having seen them, that the United States district attorney did so advise, will you now tell us why you did not join with him in also advising your many friends who had been summoned to come in here?

Mr. FEENEY. He said that he did not know they were summoned.

Mr. O'CONNELL. Wait a minute, and let me ask him this question. If you are anxious for me to get through to-night, let me ask him this question.

Mr. FEENEY. All right.

Q. Go ahead.—A. None of them advised with me.

Q. You knew that many of them had been summoned?—A. I knew nothing about it.

Q. You read in the papers that many of them were missing?—A. Yes; but I did not go out borrowing trouble, looking for them.

Q. You did not discuss it with them?—A. No, sir.

Q. While this was going on, you have been extremely interested—since this hearing started on February 17?—A. No, sir; I have not.

Q. You have been gathering together law books?—A. No, sir.

Q. Haven't you read the law books on the question of domicile?—A. No, sir; I have a decision which has been there for a good many years.

Q. Have you consulted with Mr. John F. Fitzgerald?—A. I talked with him once. I talked with him once since he came back.

Q. When was that?—A. I think it was day before yesterday, with counsel. I think it was Saturday, with Mr. Feeney.

Q. Haven't you discussed with him the fact of several hundred witnesses who were called and have not testified?—A. I did not.

Q. Now, in the conduct of elections down in your ward, you have at all times been jealous of anyone from outside appearing down there on election day?—A. I have no knowledge about it. If you are referring to ward 5, I will answer the question.

Q. I will call it ward 5, to meet you.—A. I believe I saw your brother come down there when Fitzgerald was running for mayor. I thought it was an ungracious thing to do. It is nothing but a matter of sentiment, just as when you were in politics; if you found Martin Lomasney going out into your district, standing at the polls, you would resent it. It is nothing but sentiment, that is all.

Q. Was it an expression of your sentiment that Mr. Ernest E. Smith, a member of the city council, was assaulted in your ward because he went down there to see how the elections were conducted a few years ago?—A. I was not there that morning.

Q. Had you removed yourself that morning, knowing that he was to be assaulted?—A. No; I have not.

Q. Was it an expression of your resentment against any outsider coming into your ward on election day that Election Commissioner Seiberlich was assaulted down there a few years ago?—A. No, sir; Mr. Seiberlich was in the discharge of his official duty, but the poor man lost his head. He was unfair with the voters and he made an awful mess, and I was sorry that he had any trouble. I went to him and said, "Now, Mr. Seiberlich, don't be foolish. Carry out the law, but don't be foolish." But I don't want to say anything about that. He is all right.

Q. Was it an expression of resentment against anyone coming into the ward that Adam Crowley was assaulted there?—A. Who is Crowley?

Q. You know him.—A. Who was he?

Q. At the time of the Fitzgerald-Frothingham fight.—A. No, sir; he was a resident of the ward.

Q. Was it an expression of resentment as to the presence of outsiders in the ward that these young men who were trying to assist Congressman Tague on

primary day were assaulted?—A. I was not there. I did not see anyone assaulted and I don't know that anyone was assaulted.

Q. Is this an expression of sentiment against anyone coming in to see how the election is conducted in ward 5?—A. No, sir; Mr. O'Connell—

Q. Answer my question. Is that expression of sentiment against anyone coming into the ward on election day general throughout ward 5?—A. No, sir. Now let me say this to you.

Q. No; you answer my question.—A. Let me explain myself.

Q. You answer the question.—A. I want to be fair and I want to tell you the rules of court. You can answer yes or no and then explain afterwards. That is the rule of court.

Mr. FEENEY. Go ahead and explain, Mr. Lomasney.

A (continued). You see, I know something about the rules of evidence.

Q. Go ahead and make him do it.—A. It is simply a question of answering about men coming into localities. Many times they did not mean to do it, but they have made trouble; more trouble than if they did not go there. In all the bitter fights in the North End there is this kind of respectful consideration: Take Charlestown. The men from one ward will not go down into the other ward. There is a kind of feeling that people who live in the ward should fight it out, and if you are a candidate you should not have residents and voters in other wards make rules for you. There is no law about it, but it is the sentiment. Outsiders coming in tend to offend; they say this or that and immediately the question comes about the outsider coming in. Candidates are not responsible for it, because it is a well-recognized way of conducting a campaign. That is what happens when you come in. When you were in politics in Dorchester and you found me out there, or any other man from this district, asking for votes at the polls you would say "Go home, where you belong. Don't you think in ward 20 we can take care of this ourselves?" It offends you, and if it is some friend of yours it hurts. That is the explanation I wanted to make.

Q. Are you through?—A. Yes.

Q. What do you say about political contests where, as in this case, the contestants live outside the ward; both Mr. Fitzgerald and Mr. Tague lived outside of the ward? Why should there be resentment about it?—A. I don't know of any resentment of this kind.

Q. Why were these men assaulted on primary and election day?—A. I don't know anything about it. I never advised and I did not know anything about it, and I did not assist in it at all.

Mr. FEENEY. Would you like a chair now, Mr. Lomasney, since Mr. O'Connell is sitting?

The WITNESS. No, I don't; I am tired myself, to tell you the truth, but I would sooner stand up.

Q. You can sit down, if you want to.—A. I don't want to quit in this thing.

Q. I understood you might be tired. You think that there is a general feeling of resentment in your ward, and, of course, on election day you never move out of your ward?—A. No; I don't believe ever in my life I went into another ward election day.

Q. So that your description of what might take place in other wards is simply based on the knowledge of what people in your ward feel on election day?—A. I may have gone through a ward, but I never stopped at a precinct in any other ward, even when I was a candidate.

Q. You don't like to see anyone from other wards in your ward on election day?—A. No; I did not say that.

Q. What do you say about that?—A. I can not tell you anything about it. I know their feelings.

Q. You have had this expression of feeling on their part there a great many times, haven't you?—A. No; not very many times. It doesn't occur very often.

Q. When you were testifying a little while ago you seized on No. 8 Pine Street, a house run by a charitable organization, in which 328 names were taken by the police as being there on the 1st day of April. Do you know that only 6 out of that 328 were registered as voters?—A. Well, it came to me as I saw the book in front of me. I never examined it before.

Q. You have nothing to do with the men who run that charitable house up there, have you?—A. No, sir.

Q. But did it occur to you that the Hotel Lucerne, which is right down near you, has 58 registered voters at the polls on the 1st of April, and 33 of that 58 are on the registered voting lists?—A. If you say so, I don't question it.

Q. Yes.—A. It is their right, isn't it?

Q. And that at 19 Causeway Street, where these double-decker cots are, there are 30 names as being there on the 1st of April, and 27 of them are registered as voters. Do you mean to say, sir, that you are fair in the comparison which you picked out of this charitable organization, where there are 328 names on the 1st of April and only 6 vote, and try to defend it as against the Hotel Lucerne with its 58 on the 1st of April and 53 voting, and that of 19 Causeway Street, where 30 are registered on the 1st of April and 27 voting? Do you think that you are fair to the congressional committee when we are trying to present that to their attention?—A. I simply saw the book and you were talking about colonization. I was telling you that the real question was not a question of colonization, but a question of registration. I happened to see the book, and it flashed through my mind as we talked. Of course, I see the distinction and the difference, and any reasonable man would say that you were trying to colonize and do illegal registration, and it was one of the greatest opportunities in the world.

Q. But you were not able to do anything up there—over which you could exercise no control? That is true, isn't it?—A. It did not require any charitable organization. The poor fellow is allowed to come in and pay his stipend. They have a nice clean place. A man may be here to-day and in Chicago in three or four days. And I pointed out that it was a question of registration and not of colonization.

Q. Now, you stated that in your judgment men have got a right to choose on the 1st of April the place in which they vote. That is your conception of the law, is it?—A. I stated that in my opinion the law of domicile, as I said before—take your own case and we will be frank about it.

Q. Drag me in as often as you like.—A. I don't wish to offend, but I am taking your case. In my opinion you had no intention to abandon Boston as a domicile. You are compelled for some reason or other to go to Brookline. You had no affiliations with Brookline, but your affiliations were wholly with Boston. You never intended to change your domicile, but you intended to maintain your domicile in Boston. You intended to live there temporarily until you found a proper place here. And you found when you got out that it was a good deal harder than you expected and you had to stay longer. But you would be sore if a man charged you with the fact that for two or three years you voted in Bowdoin Street, while you were living in Brookline, and they would not be justified in making such a charge. And what applies to you applies to the poorest man. What applies to a rich man applies to a poor man. He has a right to abandon his domicile, and a right to acquire a new domicile, and it is a very close question. Have I made it clear? That is my view of the matter.

Q. Now, let us see. As I understand you, you believe that a man has got a right to choose on April 1 where his domicile is to be?—A. I believe that a single man can practically elect his domicile. He can not acquire a new domicile until he abandons the old one. What is his intention? A single man, to acquire a new domicile, must abandon the old one. He must take his clothes and belongings with the intention of making that his home. He has a right to change his mind that night, or any day. That is his privilege. That is my view of the case of a single man. With a married man there are other questions; questions of families and maintenance and children, all of which enter into it. You might say—now, as I say, I intend to offend nobody, but on the question of children the question might be raised, Do they pay for schools? If they are grown up, do they pay for the tuition of their children, as non-residents, and there are a thousand and one things which enter into the question of domicile which nobody realizes until you look it over, and that is the reason that Mr. Tague did not want to try this thing before the proper tribunal. That is the whole story. I remember Mr. McSweeney was registered in the Hotel Bellevue. Some one wanted to contest, and he appeared before the election commissioners, showing that he had sent his family to Framingham temporarily because they were sick. He acquired a domicile by going to the hotel temporarily. The domicile doesn't follow the woman, the wife, but it follows the man, and he stated that fact to the election commissioners and they refused to throw him off the ballot. Take the case of John F. Fitzgerald, when Joseph A. Conry was fighting him for Congress. They had an exciting hearing in the election commissioners. Fitzgerald was living in Concord. They went into domicile questions, and they voted not to remove him. It is a very close question.

Q. Then let me ask you this.

Mr. FEENEY. Can you illustrate it by one or two more at the City Club?

Mr. O'CONNELL. Wait until you get a chance, and then you go after him.

Mr. FEENEY. I thought perhaps you would want him to do it.

Mr. O'CONNELL. You please let me examine him.

Mr. FEENEY. Go ahead.

Q. In other words, as I understand you, if a single man on the 31st day of March decides that he wants to vote in ward 5, all he has got to do is to take up his clothes and go down and sleep in ward 5, if he says to himself, "I intend to abandon my residence and go down to ward 5," although it is only for a night?—A. If a man abandoned his domicile, wherever it is—a man can have but one domicile and one vote, and the Supreme Court has said that it is clear about the man's right to domicile, and it has been under consideration on the matter of taxes—in the Supreme Court I understand they say that if a man slept on Boston Common and had no means and had the natural right to vote, that he would have to be registered from Boston Common.

Q. Is it by reason of that case, that you know men to be registered from the morgue, and from dog kennels and other places?—A. I don't know of any one registered from the morgue or dog kennels or anything of that kind.

Q. Is it based on that opinion that you justify so many men coming down to your ward on or about April 1 for the purpose of getting a voting residence there?—A. I don't justify anything. I gave you my answer to your question, my opinion on the law of domicile.

Q. I notice you are familiar with the court decisions, and that you are able to discuss this feature at length.—A. Now, if you will pardon me. I sat in the gallery of the Boston Common Council when I was a youngster, and heard George A. Shaw and saw him removed after a big fight—there used to be more fights on domicile in the old days. He was removed from the common council because of this great question, and you will find all the contested cases were based on the law of domicile where a man was, then, on the 1st of May.

Q. And all those questions are questions which arose in that part of the city known as ward 5?—A. Oh, no; you yourself were an offender. You didn't mean to be, of course.

Q. I am talking about those questions raised.—A. I know. Tague is an offender, and he has got Turnbull——

Q. My question is, that all these questions that have been raised about which you say there has been a lot of agitation, are mostly concerned with that part of the city known as ward 5?—A. No, sir; I will tell you. This situation——

Q. You have answered the question.—A. An investigation will show that ward 5 has got the cleanest voting list of any part of Boston, and if you take the firemen over in Charlestown that are running over to Somerville, you will be surprised, but I am no stool pigeon.

Q. What do you say about this case, so far as your opinion is concerned?—A. I am giving no opinion.

Q. Your theory.—A. I am giving no theory.

Q. Suppose a young man, unmarried, 25 to 35, leaves his home on the 31st day of March——

Mr. FEENEY. I shall object to that.

Q. (Continuing.) Goes to ward 5 and takes his clothing with him, and then, after the 1st of April; he goes back to the place where he came from, and repeats that practice year after year. Do you maintain that that man has the right to vote in ward 5 simply because he has elected on April 1 to make that his domicile?

Mr. FEENEY. Now, wait a minute. We will have no more hypothetical questions. I object.

Q. Go ahead and answer.

Mr. FEENEY. No, no. I ask for a ruling.

Notary MANCOVITZ. The objection is sustained.

Q. Go ahead and answer.

Notary MANCOVITZ. The objection is sustained.

Q. Are you afraid of answering that?—A. No, sir.

Q. Why don't you answer?

Mr. FEENEY. Because I object.

The WITNESS. Mr. Feeney objects, and I am not going to let you run him.

Mr. O'CONNELL. Put down that there great laughter.

Mr. FEENEY. Put down that somebody laughed at Mr. O'Connell.

Mr. O'CONNELL. I want it recorded that no attempt was made to stop the cross-examination of any witness brought in here by the contestant, and that you are invading my privileges when you curtail my right to cross-examine this witness. I have the right to examine this witness, and if you want to go to Congress for a ruling that you and your counsel want to have followed, that he will not answer the questions on this important subject of colonization, which means illegal colonization and illegal voting, which is the very heart of this question, then I want to know it.

Mr. FEENEY. Mr. Fitzgerald, whether I am right or wrong, will have to be bound by my judgment as to the law. If cross-examination was not limited by my friend Callahan, who conducted it in behalf of Mr. Fitzgerald, it was solely because Mr. Callahan asked reasonable questions and confined himself within reasonable limits, and I am sure put no such thing as hypothetical questions to any witness. Therefore I will insist upon my privilege, and Brother Fitzgerald will be responsible if I am wrong; but I don't think Congress will be alarmed at the uproar of counsel.

Notary MANCOVITZ. Opinions are not testimony, and every lawyer knows that it is not a competent question.

Mr. O'CONNELL. I want you and the witness to understand what I say here now, in order that he may understand his rights. One of the fundamental things here—

Mr. FEENEY. Ask questions and don't talk.

Mr. O'CONNELL (continuing). Is the colonization of that ward, which was followed by illegal registration and illegal voting; and, if he does not want to answer questions in reference to it, then he will refuse to do it at his peril. I insist that I have a right to cross-examine this man as to why he tolerates and justifies colonization in that ward.

Mr. FEENEY. Go ahead and ask him the question.

Mr. O'CONNELL. In his direct answers to Mr. Feeney this morning he gave a very elaborate statement of what he considered "colonization." He was asked by Mr. Feeney, What about colonization?

Mr. FEENEY. I did not ask him any such thing.

Mr. O'CONNELL. He went into the question and took up several pages of our record, explaining what he meant by it. Now, do you mean to tell me that I have not got the right to cross-examine the witness on that question? Anyway, I shall do it unless you direct him not to go ahead.

Mr. FEENEY. Well, go ahead and ask him.

Notary MANCOVITZ. If you ask the witness what his opinion is, that is not competent examination.

Mr. O'CONNELL. You allowed this man to give an expression of opinion from a dead man; and do you mean that you won't allow me to give an expression of his opinion for justifying the slaves in that ward going down there and voting for him? Do you mean that?

Notary MANCOVITZ. He need not express any opinion.

Mr. O'CONNELL (to the stenographer). Make a note that John I. Fitzgerald over here is hissing.

Notary MANCOVITZ. If you will frame a proper question, he will answer it.

Q. Do you mean to say to the people of Boston and to the congressional committee that your idea about the colonization of that ward is that a man has a right on April 1 to choose his domicile?—A. I mean to say, sir, that a man has a right to abandon a domicile any time he sees fit; that he can not acquire a new domicile until he abandons the old domicile; and it is his right to do as he pleases, just as it is his right to rise in the morning at 10 o'clock instead of 9, to smoke, to drink, and to walk. That is his right. When you come to the question of what has he done to show his intention to abandon the old domicile, what has he done to acquire the new domicile, that is a question of fact to be applied under the law; and I say that if a man wants to change—a single man particularly—wants to change his domicile, it is practically, as I stated, where he desires to locate; that he must show by his actions that he can not pass his name in at a house and not sleep there. He can not do that. He must come there. He must abandon the old domicile and he must acquire the new domicile and take up a residence there. He can change any time he sees fit, because a man's mind changes, just as my mind changed to-day. I was talking with you, and I saw that book, and I immediately changed my mind. That is the story, and that is all.

Q. And that has been the view of the law of colonization and registration which you have announced down in ward 5 since you have been there?—A. No, sir; nothing of the kind.

Q. You have preached that law until you are so familiar with it that you can talk it off here as glibly as though you were a lawmaker.—A. I have certainly had some experience as a lawmaker, and I have helped to create a good many statutes, and I have heard men of the greatest ability discuss this question before I ever thought that I would be a lawmaker myself. I have heard the question of domicile discussed by Mr. Bartlett, and those men, and you can read the decision and find my answer is not far from right, and you will find that some of the most substantial citizens of Boston are in here to-day, but some of the most substantial citizens moved out of here. Take it on Beacon Street, for instance. At those houses on the 1st of April, look at them. The people are down at some seashore resort, voting from there. Mr. Storrow has three or four homes, and he elects to vote from Lincoln. Mr. Lawson, another millionaire, decides to vote from Lincoln. Mr. Lawson, another millionaire, decides to vote from Egypt. It is his right to select his domicile, and it is a question of law as to each set of facts applicable to it.

Q. Your contention is that whatever the man has in mind at the time he does it is the thing which governs?—A. My contention is that when he leaves one domicile—if I am through living at 13 Bowdoin Street or 27 McLean Street, I am through, and I take my belongings and go to another place and intend to stay there and make that my permanent home, and I can do that and put my name in on the 1st of April. If on the 2d of April something happens and I want to go back to my old place I can do it. It does not say in the statute 10 days' continuous residence; it does not say in other States a 30-day residence, but it says where you are on the 1st of April. And you must apply the facts according to the law.

Q. If ward 5 had 4,200 voters and 4,000 of them lived outside the ward for 11 months of the year, if they happened to go there on the 1st of April with the vowed statement that they were doing it for the purpose of making it their domicile, they would have the right to vote there.

Mr. FEENEY. Wait a minute.

A. That is a ridiculous question.

Mr. FEENEY. It is a hypothetical question, to which I object.

Mr. O'CONNELL. You are always anxious to get in, Mr. Feeney, when I ask a question that gets right into the matter.

Mr. FEENEY. No; I am objecting to the question which your brother is framing for you.

Mr. O'CONNELL. I thought you had respect for him which you did not have for——

Mr. FEENEY. I have.

Mr. O'CONNELL. What is wrong about that question? Is it that you object to it because——

Mr. FEENEY. Pardon me. I don't think you are called upon, and I hope you are not called upon, to pass upon all the silly questions my brother has framed here.

Mr. O'CONNELL. You don't want him to answer that question.

Mr. FEENEY. Wait a minute. I object to the question.

Notary BERMAN. The question is excluded.

Q. Go ahead and answer the question.—A. I told you that was a ridiculous question.

Q. Suppose it was two witnesses outside who lived outside the ward 11 months in the year and came down the last of March and said: "I am abandoning this home, wherever it may be, and I intend to make it in ward 5." And on the 1st of April he lives there, and then he says: "I am going to change." And then goes back into some other part of the city. Do you mean to say that that man has a right to vote in ward 5?

Mr. FEENEY. Wait a minute. I am counsel here for the contestees, and I object to further hypothetical questions.

Mr. O'CONNELL. That is no hypothetical question.

Mr. FEENEY. I ask for a ruling.

Notary MANCOVITZ. There is no doubt it is a hypothetical question.

Mr. FEENEY. I object to it.

Notary MANCOVITZ. The objection is sustained.

Mr. O'CONNELL. Never mind his objection. Go ahead and answer the questions.

Mr. FEENEY. I object, Mr. Notary.

Notary MANCOVITZ. Your objection is sustained.

Mr. O'CONNELL. I insist on examining this man about what is going on down in the ward. Go ahead and answer the question.

Mr. FEENEY. You are not asking about what is going on in the ward, but about imaginary things. Get down to the real issue and ask about Tague.

Mr. O'CONNELL. Are you afraid to answer that question?

The WITNESS. I am not.

Mr. O'CONNELL. Then why don't you answer it?

Mr. FEENEY. Because I object.

The WITNESS. Mr. Feeney is the lawyer for Mr. Fitzgerald, and I follow the flag. [Laughter.]

Q. Do you mean to say that you follow the Fitzgerald flag; is that what you mean?

Mr. FEENEY. I object. That has nothing whatever to do with the question at issue here, and I think that after eight hours of it my brother ought to start asking some questions that are germane to the issue.

Mr. O'CONNELL. If you think you will tire me out by these speeches and objections, you make a mistake. I will stay here until I finish with this man.

Mr. FEENEY. You were finished two hours ago, but you didn't know it.

Mr. O'CONNELL. That's all right.

Mr. FEENEY. In fact, you ought not to have started.

Q. What do you say about a man who has lived in Beachmont, like Patrick J. McNulty, for 11 months in the year, but comes up to your ward for a few days before election and then goes back to that same residence in Beachmont and stays there until the following April and has his wife and children there?

Mr. FEENEY. Wait a minute, please.

Mr. O'CONNELL. And they go to school there. Do you say that that man has the right——

Mr. FEENEY. Now, Mr. Lomasney, will you please wait. Mr. Notary, I object upon the ground that there is no evidence in this case which warrants the framing of such a hypothetical question, and I ask for its exclusion.

Notary MANCOVITZ. The question calls for an opinion.

Mr. FEENEY. Will you rule it out or in?

Notary MANCOVITZ. The question calls for an opinion, and the opinion of the witness is immaterial to this hearing. I will rule it out.

Mr. O'CONNELL. You said this morning that you wanted Congress to get the atmosphere. That was your judicial opinion.

Notary MANCOVITZ. Yes; certainly.

Mr. O'CONNELL. Well, now, they are going to get the atmosphere from my cross-examination just as much as they are from any opinion given when he was on the stand under the direct examination of Mr. Feeney, and I am going to get it.

Notary MANCOVITZ. I don't believe you will.

Mr. O'CONNELL. Or I am going to have you stop me from getting it. You will do one thing or the other.

Mr. FEENEY. I will do the stopping.

Mr. O'CONNELL. You will do nothing of the kind. I will find out whether he will be able to give the atmosphere on direct examination and not on cross-examination. I want to know about this colonization, and I don't intend to be stopped in my examination of him by any ruling from you, sir, or any interference from you [addressing Mr. Feeney]. I am going to find out about that colonization, and I shall probe it until I get through.

Q. Now, Mr. Witness——

Notary MANCOVITZ. Mr. Witness, don't answer until——

Mr. O'CONNELL. What right have you to stop any questions?

Notary MANCOVITZ. Mr. O'Connell, when you know your place as a lawyer——

Mr. O'CONNELL. What are you trying to do? To make a vaudeville out of this hearing?

Notary MANCOVITZ. You are the man that is making the vaudeville.

Mr. O'CONNELL. You ought to be ashamed of the word. Your duty is to sit there and certify what the evidence is. And don't you dare stop this evidence, because there is a greater power over you, because you respect this Congress of the United States——

Notary MANCOVITZ. Of course I do.

Mr. O'CONNELL. And everything that you do to keep this evidence out will come back to you.

Notary MANCOVITZ. That doesn't frighten me a bit. I know my duty, and I shall do it.

Mr. O'CONNELL. And Congress, when taking testimony, wants to get that testimony and won't submit or won't approve of any of these unfair tactics which you are trying to invoke. It is getting late, and we shall not stop here [5.30 p. m.]. Now, I am going to get this colonization and you will not stop me.

Q. Do you know Patrick J. McNulty?—A. Certainly I do.

Q. Where does he live?—A. In Lynde Street.

Q. How long has he lived in that place?—A. I don't know.

Q. Do you know that he lives in Beachmont?—A. I don't know. He goes there in the summer time to near-by places, but I don't know where he sleeps.

Q. Don't you know that he does not live in Lynde Street except in April?—A. I don't. That is his residence.

Q. Assuming that Mr. Patrick J. McNulty lives with his family in Beachmont, owns his home there, that his children go to school there, that he is a member of the Revere Lodge of Elks, that he could not get into that lodge without living in Revere, that he comes up into ward 5 on or about the 1st of April of each year and lives there until a few days after that date in each year, do you maintain that that man has the right to call his residence on Lynde Street after the 1st of April?

Mr. FEENEY. Wait a minute. There is no evidence in this case which justifies the basis of that hypothetical question. And my friend does not know evidently anything more about the rules of law than he does about the rules of the Elks.

Mr. O'CONNELL. If you were here, you would know that that evidence is already in.

Mr. FEENEY. It was put in by the testimony of Mr. Tague last Thursday night, and Mr. Tague's testimony, as I said this morning, was nothing but hearsay, and I don't propose to go into it in this way.

Q. What do you say to the question?

Mr. FEENEY. I object.

Notary MANCOVITZ. The objection is sustained.

Mr. O'CONNELL. Congress will put its seal of disapproval upon you. Congress will tell you what it thinks of stopping this testimony from going in. We allowed the widest cross-examination of every witness produced by us, and you are doing everything you can to protect your witness. Cross-examination is for the purpose of getting at the truth, and this effort on your part is very unbecoming and very improper, in view of the fact that a congressional committee is going to sit in judgment on what is being done here.

Q. Do you know who Mr. Patrick J. McNulty is?—A. Yes, sir.

Q. He is a member of the Hendricks Club, isn't he?—A. Yes, sir; I think he is a member in good standing.

Q. And as a member of the Hendricks Club he is also a precinct officer?—A. Yes, sir.

Q. And during the greater part of the year you know he lives outside of ward 5?—A. I do not.

Q. You are very familiar with ward 5?—A. I try to be as familiar with it as I can be.

Q. You know that during the greater part of the year he lives outside of ward 5?—A. I don't know anything about it.

Q. Will you say that he did not live there most of the year?—A. I am no officer to watch where he lives, or where he doesn't live. I don't put myself outside a man's house to watch his affairs. I say he lives on Lynde Street.

Q. How do you know that?—A. It is common knowledge. How do I know that your name is O'Connell?

(Recess.)

Q. Now, coming back to Patrick J. McNulty, where we left our question: Don't you know from common report that Patrick J. McNulty does not live with his wife and family on Lynde Street?—A. No, sir; I know from common repute that they do.

Q. When did you hear that?—A. It is common knowledge down there in that section.

Q. Don't you know that Patrick J. McNulty's children go to school down at Revere?—A. I don't know about that.

Q. Lynde Street is very near where you live?—A. It is in the district, but I don't know——

Q. You don't know what?—A. I don't go chippy hunting to see where a man's family is. They attend to their business and I attend to mine.

Q. Did you talk to Mr. McNulty about the fact that he is residing in Revere and voting in ward 5?—A. No, sir; I did not.

Q. Did you discuss with him last fall in the ballot-law hearing that he had better get back to Lynde Street in order to be around when the summons should be served on him?—A. No, sir; I did not.

Mr. FEENEY. Now, Mr. Notary, in view of the fact that my friend has become normal again and he can ask questions in a way that the stenographers can take them, and I think we all appreciate that, if he does not object I move for a postponement until to-morrow morning at 10 o'clock.

Notary MANCOVITZ. The hearing will be resumed to-morrow morning at 10 o'clock.

(Hearing adjourned, to be resumed at 10 o'clock a. m. on Tuesday, March 12, 1919.)

MARTIN M. LOMASNEY.

Hearing held in room 443, Federal Building, Boston, Mass., March 11, 1919, at 10 a. m., before David Mancovitz, Esq. (presiding), and Abraham C. Berman, Esq., as notaries public.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant; John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the contestee.

Mr. FEENEY. Mr. Lomasney, will you take the stand, please?

Notary MANCOVITZ. Mr. O'Connell, are you ready to proceed?

MARTIN M. LOMASNEY, cross-examination resumed:

By Mr. O'CONNELL:

Q. Have you brought the list of the Hendricks Club here this morning?—A. I have not, sir.

Q. You received a summons to bring it here, didn't you?—A. I received a summons just as I came in the door. I haven't read it.

Q. How long would it take you to go to the Hendricks Club?—A. I do not know anything about that.

Mr. O'CONNELL. I am willing to suspend this hearing now to give Mr. Lomasney time to go to the Hendricks Club.

Mr. FEENEY. We won't suspend.

Mr. O'CONNELL. Wait, now, please. Wait until I finish.

Mr. FEENEY. Now, be quiet.

Mr. O'CONNELL. Wait until I finish. I do not like to be interrupted the very first thing, and I ask you as a gentleman——

Mr. FEENEY. Go ahead.

Mr. O'CONNELL. To allow me to make my statement without interruption from you.

I ask you, Mr. Notary, to suspend this hearing for 20 minutes, which will allow Mr. Lomasney time enough to go to the Hendricks Club and get this list I have asked, and he has received a subpoena to bring here a list of members of the Hendricks Club. That subpoena ought to be honored. It was served by a United States marshal. This hearing means a great deal. The list of members of the Hendricks Club is extremely essential to prove the colonization. Through it we will show you how that ward has been colonized.

This man has that list with its addresses, and I have asked him in the name of the law to bring it here. I am entitled, as an instrument of this hearing, to have that testimony before us this morning. Congress is entitled to the information, to the fullest information, and I would ask you, sir, in the interest of justice, in the justice of an effort to bring out all the facts in this case, to suspend this hearing to enable Mr. Lomasney to go to the Hendricks Club and bring those lists over here to this hearing, so that I may continue my examination as to the colonization of that ward, which has been done through the instrumentality of this Hendricks Club and its membership.

Notary MANCOVITZ. Mr. Feeney, proceed.

Mr. FEENEY. Now, Mr. Notary, the act of Congress provides that the contestant, Mr. Tague, should have the right for 40 days to summon in witnesses to prove——

The WITNESS. May I sit down?

Mr. FEENEY. Certainly. I do not blame you. [Continuing.] To prove the allegations set forth in their bill. The 40 days' period has expired. The noble warrior who has just made his speech had full opportunity, if he had the courage, during that period of 40 days to have summoned Mr. Lomasney and to have brought him here with his books and his records, if he saw fit so to do. But Mr. O'Connell did not do that, for reasons best known to himself.

Now, then, the rule of law is this: That I have started the hearing in behalf of Mr. Fitzgerald, the contestee, and I am now offering evidence in his behalf, and with all due respect to my friend's knowledge of the law, neither now nor at any other time until the 40 days allowed Mr. Fitzgerald shall have expired, has he got the right to summons any witnesses of summons the bringing in of any book.

When that 40-day period has expired, then the act of Congress gives him the right for 10 days more to bring in evidence in rebuttal to such evidence as I may produce. Therefore, I am going to object now to Mr. O'Connell's attempt to put in witnesses of his own during the 40 days which is allowed to me. Therefore, I object to his subpoenaing any witness, to his asking any witness under a subpoena duces tecum to produce any paper during the period allowed me to present my case, and I therefore object to any suspension of this hearing now in order that Mr. Lomasney may go any place. The only place I want him to go is back on the witness stand to testify.

Notary MANCOVITZ. Your objection is sustained.

Mr. FEENEY. Take the witness stand, Mr. Lomasney.

Mr. O'CONNELL. It is very evident, Mr. Notary, that the snarling attitude of defiance assumed by Mr. Feeney is due to the fact that Mr. Tague has hit the vital spot of his attempt to frustrate the will of the people of that district.

It is a new proposition of law that in cross-examination a man is to be denied the right of access to papers that are material to the examination. It is a new proposition, novel to the courts, and probably is the kind of law my brother practices. It certainly indicates his knowledge of the law, or lack of knowledge of it, when he states in an open court room that we have no right to ask a man to bring papers in reference to the subject on which he has testified.

Now, I want to say to you, sir, the list of the members of the Hendricks Club is essential to this examination. This is not my witness. This is the witness produced here by John F. Fitzgerald. I want to show Congress the way in which the will of the people was frustrated. I want to establish the colonization of that ward, and the way to establish that colonization is to get the books of the Hendricks Club, and I am going to get the books of the Hendricks Club into this evidence, and I ask that this man be told that he must obey the summons that is served upon him. The summons tells him to bring them with him, and he should bring them. The Hendricks Club is less than a quarter of a mile away from here—maybe a half a mile at the very most—and he certainly doesn't need to plead that he can't.

Now, I ask you, sir, to tell him, if you have any desire to have fair play, if you have any desire to have this hearing conducted in a judicial manner, if you desire to have the practices of the courts followed in this hearing, then I ask you, sir, to say to this witness here that he must obey and must honor a subpoena issued in the name of the people of the United States of America and served by a duly-commissioned officer, a deputy United States marshal.

I ask you to tell him to bring forth those books. I am asking it because—I repeat again—that this is essential; I want to prove that colonization and out of his mouth and out of the lists on those books I will show the colonization and the manner in which that colonization took place.

Mr. FEENEY. Now, Mr. Notary, I do not want to start him going again, because he only repeats himself. It is undoubtedly true that the proposition of law which I suggested is new to my brother, but that doesn't change the proposition of law at all. Now, he had 40 days within which to issue this subpoena. He has 10 days at the completion of our side of the case to again issue a subpoena. Therefore, I object to your suspending this hearing now in order that a subpoena improperly issued and at an improper time shall be in any way carried out.

Notary MANCOVITZ. I have ruled your objection to be a proper one, and ordered Mr. O'Connell to proceed.

Mr. O'CONNELL. When the witness is on the stand, he is always subject to a subpoena duces tecum during a suspension of the hearing.

Q. Mr. Lomasney, are you afraid to produce that list?—A. Mr.—
Mr. FEENEY. Pardon me.

The WITNESS. Yes, sir.

Mr. FEENEY. I object.

A. I am afraid of nothing, Mr. O'Connell, you nor anybody else.

Q. Nothing to be afraid of me, Mr. Lomasney.—A. I am telling you that, sir. That is an answer to your question.

Q. I am perfectly inoffensive.—A. I understand. I appreciate your courtesy. I try to answer the question in my own way.

Q. Do you think it is necessary to add all that when I ask you a simple question as to whether or not you are afraid to produce a particular list of the Hendricks Club?—A. I think it is necessary for me to show you my state of mind, and I am going to do it in my own way.

Q. Will you now state whether you are unwilling to produce the list of the membership of the Hendricks Club?—A. I am willing to comply with the law at any particular time or place. Always believe in carrying out the strict letter of the law.

Q. Will you produce the list of the membership of the Hendricks Club for the afternoon session?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Objection sustained.

Q. Will you?

Notary MANCOVITZ. I rule the question out.

Mr. FEENEY. I object.

The WITNESS. I am between two fires here—God and the devil.

Mr. FEENEY. Thank you.

Mr. O'CONNELL. I am glad somebody called you right.

Mr. FEENEY. You take your pick, old boy.

Mr. O'CONNELL. I am glad somebody called you right.

Q. Are you willing to send any of the very many members of the Hendricks Club, whom I see here this morning, over to get that list?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Mr. O'Connell, I have ruled that out.

Mr. FEENEY. Pardon me, I object.

Q. Are you?

Mr. FEENEY. I object as to whether he is willing to do it or not.

Notary MANCOVITZ. Objection sustained.

Notary BERMAN. Mr. O'Connell, just one minute. In order that there be no misunderstanding, I want it understood, as far as the record is concerned, Mr. Mancovitz has no right to exclude evidence. You have a perfect right to ask any question you so desire.

Mr. FEENEY. There is another fine little judge turned loose.

Q. Do you understand what the notary told you?—A. I know him and I give that weight to his decision of what his standing in the community demands.

Q. Now, then, you have heard Notary Berman warn you and state to you the law, that evidence can not be excluded, and that you, as a witness, must answer.—A. Mr. Berman—

Q. Now, Mr. Lomasney— A. Mr. Berman will never be asked by me to interpret the law, with all due regard to the admission certificate he has, I believe, by virtue of the bar examination. I think I know as much law as he does myself.

Q. Is that the way you want to characterize everybody, Mr. Lomasney?—A. I want to characterize you as your viewpoint of my listening to him, to him, for the law.

Q. In other words, anybody who disagrees with you, you like to belittle and besmirch them?—A. No, sir; but I want you—

Q. Why did you characterize this man, who is a member, and in good standing of the bar?—A. I do not know whether he is or not.

Q. You have known Mr. Berman for a good many years?—A. I know his reputation in the community, yes; and so does a great many other people. His reputation and character isn't on trial. Don't bring it in. Try this issue.

Q. Why do you want to besmirch— A. Because you intimate and uphold him to me as a great man to follow. Keep him down where he belongs.

Q. What do you mean by that?—A. Why, he has more dignity conferred on him there than he ever had in his life.

Q. A statement of the law that you can answer questions doesn't require you to make such allusions to him as you have made, Mr. Lomasney.

Mr. FEENEY. Pardon me, sir.

The WITNESS. Pardon me, sir. You started it. You start it and put the case up. You understand, Mr. Feeney is the counsel for Mr. Fitzgerald.

Mr. FEENEY. Pardon me, sir. I think we ought to go ahead with this hearing now and get over discussing brother Berman.

Q. Are you willing to leave—to permit John I. Fitzgerald to go to the Hendricks Club and bring over the list of membership?

Mr. FEENEY. That I object to. I do not care what he is willing to do. He is here as a witness to testify, and I do not care what he is willing to do. I object to the matter of whether he be willing or unwilling for anybody else to do anything other than himself.

Mr. O'CONNELL. I thought you said yesterday the bars were down.

Mr. FEENEY. The bars are down, so far as the examination of this witness is concerned, but we are not going to be errand boys for you.

Mr. O'CONNELL. You quit cold quicker than any man I ever knew.

Q. John I. Fitzgerald is in the court room, is he not, sitting right here?—A. As far as I can see, he is the only member of the Hendricks Club I know in the court room.

Q. Now, he being here, aren't you willing to allow him to go over there?

Mr. FEENEY. That I object to.

Q. He is the man you wanted to send to Congress?

Mr. FEENEY. That I object to.

A. He is just as competent as you were when you were sent there.

Mr. O'CONNELL. I am not making any comments. I am simply——

Mr. FEENEY. Pardon me. I hoped Brother O'Connell would go through in a normal condition to-day, but evidently he isn't going to. I object, Mr. Notary, to the question as to whether this man is willing or unwilling that somebody else should do something, and it has nothing to do with this case.

Notary MANCOVITZ. I sustain the objection on all that line.

Mr. O'CONNELL. It is another refusal and defiance to permit Congress to get at the facts in this case. If you want to keep on defying Congress and its instrument in getting evidence——

The WITNESS. I never defy the laws of my country. I obey them.

Q. Then, are you willing to assist this hearing in putting before Congress all the information about the colonization of ward 5 by bringing in here the lists of the members of the Hendricks Club?

Mr. FEENEY. That I object to. There isn't anything that would warrant the inference that the bringing in of the books of the Hendricks Club would indicate in any way about colonization. You have made that allegation. For 40 days you have been wandering far afield from it. Now, I have brought here this witness. Cross-examine him and prove it, if you can, by him.

Mr. O'CONNELL. That is exactly what I am attempting to do.

Mr. FEENEY. The Lord knows——

Mr. O'CONNELL. And let me do it.

Mr. FEENEY. You are not having good luck at it.

Mr. O'CONNELL. Because you and he are frustrating it by preventing me from getting the information that would convict him. Now, then, I want to see whether he is willing to bring that list in at the noon recess.

Mr. FEENEY. I object.

Notary MANCOVITZ. He can answer the question. Proceed.

Mr. O'CONNELL. Again defying Congress.

Mr. FEENEY. I object.

Mr. O'CONNELL. And it is very evident and must be very clear——

Mr. FEENEY. Go ahead.

Mr. O'CONNELL. To any fair-minded man that you are afraid to have the list brought in.

Mr. FEENEY. Now, I ask that be stricken from the record.

Notary MANCOVITZ. That may be stricken out.

Mr. FEENEY. It is simply one of Mr. O'Connell's speeches, but it isn't evidence.

Mr. O'CONNELL. It is evidence that you are afraid to bring in that list.

Mr. FEENEY. Neither the witness nor myself ever was or ever will be afraid of you. That is apparent.

Mr. O'CONNELL. You were afraid to bring in the list; you are afraid to bring in the list.

Mr. FEENEY. For 40 days you did not dare—did not have the courage to put this man on the stand.

Mr. O'CONNELL. What are you afraid of?

Notary MANCOVITZ. Strike all that out as immaterial.

Mr. O'CONNELL. Oh, I don't know that he will strike any of that out. What do you mean? You are going to order things stricken out of this record?

Mr. FEENEY. Pardon me.

Mr. O'CONNELL. Are you going to interfere with this record?

Mr. FEENEY. Pardon me, Mr. Notary.

Notary MANCOVITZ. I have ruled.

Mr. FEENEY. Pardon me, Mr. Notary.

Mr. O'CONNELL. Let me tell you something, sir. If you interfere with any of this record, the record will be made immaterial and not acceptable to Congress. You have got no right to strike anything out of the record.

Mr. FEENEY. I think about all that you have been saying will be considered as immaterial by Congress, and God knows it is not acceptable to anybody.

Mr. O'CONNELL. Your blatherings don't make it such.

Mr. FEENEY. It only shows you the kind of hot air that comes from you.

Q. Now, then, until that time comes, until the noon recess, when I am going to give you a chance to bring that list in, Mr. Lomasney—A. You know I follow the flag. He is the leader. He is the counsel.

Q. You can't get out of it by simply doing that. I warn you that the summons was served on you, and you must obey a summons.—A. I know my lawful rights, and you can rest assured I will take the advice of eminent counsel if I am in doubt.

Q. Now, taking up this matter of colonization again where we left off last night, do you know Charles F. Gallagher?—A. Yes, sir.

Q. Do you know that he lives at 42 Beach Road, Winthrop, Mass.?—A. I do not.

Q. What is his business?—A. He is an inspector in the building department.

Q. Of the city of Boston?—A. Yes, sir.

Q. For how many years?—A. Well, I couldn't tell you. He has been there 10, 12, 15, or 20 years. I don't want to say exactly.

Q. And where does he vote from?—A. I think he votes from the Hotel Haymarket.

Q. You know, do you not, he lives in Winthrop the best part of the year?—A. I do not, sir.

Q. Will you say he doesn't?—A. I will say I know nothing about it. Consequently, I won't testify.

Q. You do know where he votes?—A. I know he votes from the Hotel Haymarket.

Q. Do you know Thomas H. Keenan?—A. Yes, sir.

Q. Do you know he lives in Allston?—A. I do not.

Q. Have you ever been to his home—25 Henshaw Street, Brighton?—A. No, sir.

Q. Do you know where he votes from?—A. I think he votes from the Hotel Haymarket.

Q. Is he a member of the Hendricks Club?—A. No, sir.

Q. Will you say that Mr. Keenan does not live in Brighton during the year?—A. I will say that Mr. Keenan is a single man, and that he lives at the Hotel Haymarket.

Q. Do you know how long he has lived there?—A. I do not know, sir. I don't watch him or don't watch the place.

Q. How long have you known Mr. Keenan?—A. I have known him since he was born.

Q. How long do you know him as a resident of ward 5?—A. There is quite a history about his birth. I remember the night the youngster was born. They had quite a row, they had quite a row out our way. We were in the room, I guess, a night or two after he was born; quite a history, so I remember him. He is a son of an old friend of mine.

Q. Exactly. And you knew him because the father and mother lived down in the west end, and you knew them all very well?—Yes, sir.

Q. You knew where they lived?—A. They lived in the west end. I was in his house in the west end. I haven't been in his house—

Q. You haven't been in his house in the west end in the last four or five years?—A. I never was in his father's house in Brighton.

Q. You know that his father's house was in Brighton?—A. I know his father and mother moved several years ago, but don't know the—

Q. You know the boy went with them?—A. No, sir; he did not.

Q. If the boy says he did, he ought to know, hadn't he?—A. I know the boy votes and lives at the Hotel Haymarket.

Q. You know the father and mother never lived at the Hotel Haymarket?—A. I do not know what they done.

Q. Have you ever called at the Hotel Haymarket to see Mr. and Mrs. Thomas H. Keenan?—A. No; I never called at Brighton to see Mr. and Mrs. Thomas H. Keenan; never was in Brighton to see Mr. and Mrs. Thomas H. Keenan. Never saw Mr. and Mrs. Thomas H. Keenan. He isn't married. Thomas F. Keenan was the father.

Q. Thomas F. Keenan was the father?—A. Yes, sir; pardon me.

Q. Do you want to tell us that this man lives at the Hotel Haymarket?—A. He told you so himself, didn't he?

Q. I am asking you, sir.—A. That is the best of my opinion; my knowledge and opinion.

Q. What do you base your opinion upon?—A. I know what the facts are. I have read what he said here. He says he is on the voting list.

Q. You have been following what is going on pretty closely here?—A. I read the testimony of Mr. Tague, and I am prepared to meet that question.

Q. You have read the testimony here?—A. I have read the testimony of Mr. Tague.

Q. You have read the rest of the testimony?—A. Not all of it.

Q. Followed it pretty closely?—A. I always follow this closely.

Q. You have had the stenographic report sent to you?—A. Unquestionably.

Q. And you have gone through it word for word?—A. No, sir; did not have time.

Q. Do you know Mr. Keenan has been summoned here?—A. I did not know anything about it. I know he testified.

Q. Do you know Charles F. Gallagher, about whom I asked?—A. Don't know anything about it.

Q. Is Mr. Gallagher a member of the Hendricks Club?—A. I think he is.

Q. Has he spoken to you about having been summoned here?—A. No, sir.

Q. Have you talked with him either on the phone or otherwise?—A. No, sir.

Q. Has he sent any messenger to you?—A. No, sir.

Q. Asking for advice?—A. No, sir.

Q. Have you sent word to him?—A. No, sir.

Q. By anybody?—A. No, sir.

Q. Have you understood from him or anybody why he did not come?—A. No, sir.

Q. Are you willing to advise him to come now?

Mr. FEENEY. Wait a minute. I object to any—

Notary MANCOVITZ. Objection sustained.

Mr. FEENEY. Willingness or unwillingness with reference to this witness with reference to some third party.

Q. Are you willing to advise him to come now?

Mr. FEENEY. I object.

Notary MANCOVITZ. Objection sustained.

Q. As treasurer and one of the principal officers of the Hendricks Club, of which club—political club—Mr. Gallagher is a member, are you not willing to help Congress to secure Mr. Gallagher's testimony, he having already been summoned to appear here and not having appeared?

Mr. FEENEY. That I object to. It is of no consequence as to whether he is willing to advise somebody else or not. Will you—

Q. Will you please answer?

Mr. FEENEY. I object.

Notary MANCOVITZ. Objection sustained.

Q. Will you please answer?

Mr. FEENEY. The question has been ruled out.

Mr. O'CONNELL. He can't rule any question out.

Mr. FEENEY. Oh, we have.

Mr. O'CONNELL. You have done lots of things you shouldn't have done.

Mr. FEENEY. And lots of things we should have done.

Mr. O'CONNELL. Lots of things you should not have done.

Q. Are you willing to answer that question?

Mr. FEENEY. Pardon me, sir. I object to your—

Notary MANCOVITZ. I ruled the question out. Ask another question.

Mr. O'CONNELL. You know you have no right to rule any question out.

Notary MANCOVITZ. I know my rights, and I am going to exercise them.

Q. Do you know John F. Moylan?—A. Yes, sir.

Q. Do you know that Mr. Moylan lives at 128 Walnut Avenue, Revere?—A. I do not, sir.

Q. Is he a member of the Hendricks Club?—A. No, sir; I do not think he is.

Q. Do you know that his mother died and was buried from John F. Moylan's home at 128 Walnut Avenue, Revere, yesterday?—A. I do not know anything about it, sir.

Q. How long have you known Mr. Moylan?—A. I have known him for some years.

Q. Do you know where he votes from?—A. No, sir; I do not.

Q. Do you know that he votes from Causeway Street?—A. I do not know, sir. I would not say.

Q. From the rear of 14 Causeway Street?—A. I do not know, sir.

Mr. O'CONNELL. I will read into the record the following death notice, in the Boston Globe, of Mrs. Moylan—

Mr. FEENEY. I object.

Mr. O'CONNELL. In Revere, March 7.

Mr. FEENEY. I object.

Mr. O'CONNELL. "Mary E. Moylan, widow of John Moylan, neé Callahan. The funeral will be held from the residence of her son, John F. Moylan, 128 Walnut Avenue, Monday, March 10, at 9.15. Solemn high mass at the Immaculate Conception Church, 10 o'clock. Relatives and friends invited. Peabody and Salem (Mass.) papers please copy. Automobile cortege."

Mr. FEENEY. The man who would not bring in the dead.

Q. You know that Mr. Moylan, although living in Revere, has been voting in your ward?—A. I have no ward, sir.

Q. In ward 5?—A. I do not know anything about it, sir.

Q. How often do you go over that voting list?—A. Oh, whenever occasion requires.

Q. That is how often?—A. Well, it depends on how hard the fight is on.

Q. How many years have you known Mr. Moylan?—A. I have known Mr. Moylan a good many years. I wouldn't say, sir. Probably 12 or 15 years. Maybe longer.

Q. Do you know what his business is?—A. I don't want to be unjust to the man, but I think he is a bartender—a wine clerk or something. I am not sure.

Q. At the Lancaster Club?—A. If you say that. I think that is his business. I don't want to be positive.

Q. The Lancaster Club is a liquor club in your ward?—A. A licensed club in the west end.

Q. Purely a liquor club in that ward?—A. It is a licensed club. It is a liquor place. I do not know. I do not drink rum, you know, so I do not go where it is very often.

Q. Have you talked with Mr. Moylan about coming here?—A. No, sir; I have not.

Q. Are you willing to advise Mr. Moylan that he should come and honor a summons from the United States marshal to appear here?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Q. Are you?

Notary MANCOVITZ. You heard Mr. Feeney's objection.

Mr. O'CONNELL. Pardon me, sir. I ask you to proceed. Now, you are on the stand, Mr. Lomasney.

A. I know it, but I regard his rights in this case. If he says "object," you have to have the notary tell me before I proceed. I don't follow you in that. I do what is right and proper.

Q. The right thing is to answer the question?—A. That is a matter of a difference of opinion, as I told you before.

Q. That is not—A. Two gladiators.

Q. That is the law. Are you willing to answer the questions put to you under cross-examination?—A. I am willing, sir, to answer any proper legal question that the notary says is within the law.

Q. Do you know James J. Lavien?—A. Yes, sir; yes, sir.

Q. Does he work for the city of Boston?—A. I think he does; yes, sir.

Q. Is he a member of the Hendricks Club?—A. I think he is; yes, sir. I think he is. I think he is; yes, sir.

Q. Do you know that he lives with his wife and two small children at 28 Rodman Street, Jamaica Plain, Mass.?—A. I do not know anything about it, sir.

Q. Don't you know he lives in that part of the city?—A. No, sir; I do not.

Q. Do you know he votes in your ward?—A. I think he does. I am not sure, but I think he does.

Q. And from the Lincoln House?—A. I wouldn't say so.

Q. Do you know Mr. Lavien and his wife never lived at the Lincoln House, don't you?—A. I do not know anything about it, sir.

Q. Are you willing to advise Mr. Lavien that as a citizen of this country, duly summoned by law, that he should come here and testify?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Now, I object.

Q. You refuse to answer?

Mr. FEENEY. I object.

The WITNESS. Talk to the court. Get the order of the court, and I will obey.

Q. Do you say that Mr. Lavien does not live in Jamaica Plain?—A. I say I do not know anything about it—where the gentleman lives.

Q. Do you know James E. McGonagle?—A. Do I know James E. McGonagle? Yes, sir. There are some McGonagles, but I do not know that I know them very well. There was some there, but I can't recall them. There was young people. There was a couple of families. I do not know which one.

Q. I mean James E. McGonagle, jr., of the family now living at 93 Binney Street, Roxbury.—A. I may have known them, but I do not recall them quickly. I might know the gentleman.

Q. Don't you and Mr. Beatty own the house at 93 Binney Street, Roxbury?—A. We own property on Binney Street, but not that number.

Q. What is the number?—A. I think we own, if you will pardon me?

Q. Sure I will pardon you.—A. I do not know the numbers. I am trying to think of them. We own three houses right near Longwood Avenue, the left as you go up Longwood Avenue, whatever the numbers are. I think it is 48—50—I wouldn't say for sure the numbers. I do not want to, but I can find that number, you know.

Q. Who are the tenants besides Mr. McGonagle?—A. I do not know anything about it. I haven't been there for years. Mr. Beatty looks out for the property.

Q. Do you know that McGonagle who lives there—James E. McGonagle, who lives at 93 Binney Street in one of those houses owned by you?—A. I do not think that is so. I do not think—that is wrong. I do not think 93 Binney Street is the number, our number.

Q. Assuming he lives at 93 Binney Street.

Mr. FEENEY. We won't assume anything.

Q. We will put the question this way: Do you know the James E. McGonagle, jr., who lives at 93 Binney Street, Roxbury, who has lived at that house for close onto two years, is registered and votes from the Merrill House?—A. I do not recall that man, sir. I can not recall that man, sir. I can't recall that name, sir.

Q. And, for your further information, he is a post-office clerk.—A. I don't—can't recall the gentleman. Of course, I know a great many people.

Q. If you have a tenant by the name of James E. McGonagle there, are you willing to advise him to come here and help give the truth as to his registration in that ward?

Mr. FEENEY. Wait a minute. I object to it.

Notary MANCOVITZ. Excluded.

Q. You helped the ballot-law commission when it became necessary to bring in witnesses that could not be obtained otherwise. Is there any reason why you should not help Congress by aiding in bringing in these names that I am giving you?

Mr. FEENEY. Pardon me. Pardon me. You are not Congress, brother. When Congress asks him to do it, he will consider it; but, so far as you are concerned, you are just counsel for Peter Tague. You are not counsel for Congress.

Mr. O'CONNELL. You don't mean it?

Mr. FEENEY. Not only mean it, but it is time you ought to realize it.

Mr. O'CONNELL. You don't mean that?

Q. You assisted the ballot-law commission in bringing the names into their presence—35 or 40 men—after—on the last day of the hearing, did you not?—

A. I done my duty as I saw it at that time.

Q. That was by helping to bring in those men?—A. When the ballot-law commission——

Mr. FEENEY. Do you want an answer now?

Mr. O'CONNELL. I want to ask them.

Q. Didn't you help them?—A. Do you want me to state it in my own way, Mr. O'Connell?

Q. I would rather you stated my way first, and then if you want to——

Mr. FEENEY. State it accurately; your way.

Q. I wish you would answer my question yes or no.—A. I want to be courteous to you, Mr. O'Connell, I assure you.

Q. If it is necessary for you to say anything else, you can do as you did yesterday—make all the speeches that you want.—A. I will say yes, I did. Now, I will tell you why.

Q. All right; go ahead.—A. We were up in that ballot-law commission for a long period. I heard you and these gentlemen performing in just the same way, and I saw your vicious attacks on honest and respectable poor people—men, for instance, who had to work for a day's living, who haven't the means of—of course, at that time, I had not investigated your own case, but since this hearing I have investigated your own case, and I find that in the 1914 directory you are at 15 Waldeck Street, Dorchester. I also find that you are on the voting list that year, 15 Waldeck Street, at precinct 8, ward 20, of Boston.

In 1915 directory it states your home house in Brookline, and on the voting list in ward 20, precinct 7, 13 Bowdoin Street. That is, your house is in Brookline, by the directory, and that you are talking here and you were talking there and your voting residence was at 13 Bowdoin Street.

In the 1916 directory it states your house is at 13 Bowdoin Street, and the voting list is also at precinct 9, ward 18, 15 Bowdoin Street. Somebody—not you, but evidently somebody—took your house out of the directory at Brookline, but it left you with the house at 13 Bowdoin Street.

In the 1917 directory it states: "Boards 13 Bowdoin Street; boards 13 Bowdoin Street." On the voting list, ward 18, precinct 9, 13 Bowdoin Street. At that same time you were elected to the constitutional convention, and you were living in Brookline, outside of the congressional district. Now, sir, when I see the principal person, the attorney who has been making all these talks, calling people slaves, denouncing these poor people who have no right to do anything, have no rights to breathe, when I come to investigate this question I begin to say, "Am I justified, am I justified, in view of these examples of what they do themselves and how they regard the laws, in taking part in such a farce any longer?" That is what I have to say, sir.

Q. Did you investigate your own attorney, Mr. Callahan, to find out that he lives in the same place?

Mr. FEENEY. Mr. Callahan is not his attorney.

Mr. O'CONNELL. Oh, he isn't an attorney?

Mr. FEENEY. He isn't his attorney. He is an attorney; a much better one than you ever will be.

Q. Now, will you please answer my question as to whether or not you helped to bring in witnesses to Mr. Cunningham?—A. Certainly.

Q. And Mr. Cunningham was your friend?—A. Mr. Cunningham wasn't my friend. Mr. Cunningham was your friend. If Mr. Cunningham was not your friend, he never would open that hearing.

Q. Well, your statement of Mr. Cunningham being a friend of mine—you say you sent your boys out?—A. I never said—I never had any boys to send out.

Q. Wait a minute until I get through asking my questions.—A. Pardon me.

Q. Yesterday in your testimony you stated that you sent your boys out to bring these men in.—A. Pardon me, sir. I never used the word "boys." I ask that the records be read. I object to that word. I do not think I ever used the word "boys."

Q. I will say to you——A. You are asking me to swear to something. I like to be advised.

Mr. FEENEY. He did nothing of the kind, sir.

Mr. O'CONNELL. I am not going to bandy words with you, sir.

Mr. FEENEY. Have to have good luck to do that.

Q. What do you say?—A. I said we sent out—I think I said it; that is what I said. I did not use the word "boy."

Q. Who is "we"?—A. The organization.

Q. Who is the organization?—A. The members that were around on deck on that occasion.

Q. Who were they?—A. I can't recall now.

Q. Give me some name.—A. I can't recall now.

Q. Give me some names. Give me one name.—A. Myself; I was there, anyway.

Q. Who else?—A. I don't recall.

Q. Give me a single name.—A. I can't recall all of them.

Q. Give me a single name—A. I am giving you my own name. Proceed with me—I will——

Q. Anybody else?—A. I do not recall anybody else.

Q. You were the only one, as a matter of fact, to send out names to have the men come in?—A. I did everything I could to comply with the request of the ballot-law commission and bring practically all men they said they could not find.

Q. What do you mean by trying to put in the inference that others were helping you to do it, when you can't name a single man, can't bring forth a single name?—A. Of course, you recognize this fact, that I, or you, you are in your office, you can't do it all. You have your brother, your brothers, and Mr. Feeney has Mr. Callahan. Of course, you know very well at my age I can not run around this town. I don't recall the members of the organization who were there when we started out to get them in. I do not remember who done it.

Q. Can you give me a single—A. I am giving you my name. I am responsible for it.

Q. In other words, you are the boss?—A. I am not the boss. I am an ordinary 6 o'clock, every-day worker.

Q. You can't give us the name of a single associate you have—A. I can't recall at this moment a single man who too part in that proceeding.

Q. Why don't you do that same thing now to help the Congress get the information from these men who are missing and who have been summoned?

Mr. FEENEY. Pardon me. Congress hasn't made any such request. We are not acting because Congress has directed us to. The statute gives certain people the right to proceed under the statute. Congress hasn't made any request of Mr. Lomasney.

Notary MANCOVITZ. Excluded.

Q. Then you are not willing to do the same thing here toward bringing in witnesses that you did to bring in witnesses before the ballot-law commission?

Mr. FEENEY. That I object to. It isn't of any consequence whether——

Q. Yes or no.

Mr. FEENEY. I object. It isn't a question as to whether or not he is willing to bring in witnesses, because it is no part of his testimony. I am conducting this case for Mr. Fitzgerald. I will bring in such witnesses as I choose for Mr. Fitzgerald. Mr. O'Connell is counsel for Mr. Tague, and it is his duty to bring in witnesses for Mr. Tague. It is no part of the witness's duty to bring in witnesses for anybody.

Notary MANCOVITZ. The objection is sustained.

Mr. O'CONNELL. You are very clever, Mr. Feeney.

Mr. FEENEY. Thanks.

Mr. O'CONNELL. In coming to the assistance of Mr. Lomasney at every occasion when we get him onto dangerous ground. Now, I would ask you, sir, in the interest of justice and fair play to not interrupt my cross-examination of this witness, but allow me to proceed. I want to find out why this man, who has the power to bring in witnesses, who showed his power and demonstrated it before the ballot-law commission is unwilling to use that same power, and that same effort to-day, to bring in those same witnesses before this hearing in order that Congress, when it reads the record, may know why these men were registered in one ward of the city, although they lived in other parts of the Commonwealth of Massachusetts.

Mr. FEENEY. I wonder if poor Congress has got to read all the stuff you have been uttering here. But you did bring in——

Mr. O'CONNELL. He said that four times.

Q. As the result of your efforts, some 35 men, did you not?—A. We—the organization—acting in accordance with the suggestion of the ballot-law commission, took the list that Mr. Pedrick furnished me, and so far as the ward 5 part was concerned, made an effort to locate everybody that was on that list. I do not know how many they brought in. I did not count them. I am not sure of it. We done the best we could. They did the best they could.

Q. Do you know that many of those names whom you brought in have since been summoned to appear here?—A. I do not know anything about it.

Q. And they haven't come into this hearing?—A. I do not know anything about it, sir.

Q. Are you willing to advise those men that they should come in here and testify?

Notary MANCOVITZ. Question excluded.

The WITNESS. You know Mr. Feeney has made his objections to that part of it.

Q. I ask you if you are unwilling to answer the question yourself?

Notary MANCOVITZ. Excluded.

Q. Regardless of what Mr. Feeney does, are you unwilling to answer the question?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Pardon me, pardon me; I object.

Q. Are you unwilling to help us to get at the truth of the colonization in ward 5?

Mr. FEENEY. Mr. Tague and Mr. O'Connell are now crying for help. I object. Let them prove their allegations.

Mr. O'CONNELL. Let them prove their allegations?

Notary MANCOVITZ. Objection sustained.

Mr. O'CONNELL. And you won't allow your witnesses to answer questions?

Mr. FEENEY. Go ahead. You got your list there—your secret-service list.

Q. Are you willing to take the responsibility of these men not coming in here, Mr. Lomasney?

Mr. FEENEY. Wait a minute, Mr. Lomasney.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. There is no responsibility upon you at all, I assure you.

Q. Many of these men are poor men.—A. Why don't you treat them right, then?

Q. Now, please, wait a minute. Many of these men are, as you describe them to be.—A. Why do you call them slaves?

Q. Because they are your slaves. It is very evident.—A. We treat them decently.

Q. Because you treat them as slaves, it is very evident.—A. We treat people decently. You can't scare any men of Irish blood by calling them slaves and then come up with a little soft talk. You yourself are a mattress voter. You yourself are a mattress voter.

Mr. FEENEY. You better get somebody to your aid now.

The WITNESS. Asking people to be indicted for mattress voting, and you are a mattress voter.

Q. Let me ask you, what do you mean by a domicile and a mattress voter?—A. A mattress voter is a man, in the common parlance, who has a decent wife and family in one part of the community and who leaves his decent wife and family and goes to another part or a section of the city and enters the home of another decent person and stays there without having any disagreement with his wife, or family trouble. That is called, in common parlance, a mattress voter. You are a mattress voter. Paddy Goggins is a mattress voter, and Turnbull—who has been running the navy yard—and if they ever investigate his—the administration of the navy yard, his administration of the navy yard under he and Tague, while this selective draft was on, they will make them run, in my opinion, to the wilds of Canada.

Q. Now, then, you have defined a mattress voter. I want you to give us the number—in hundreds—of mattress voters in ward 5.—A. I do not know any of them, sir.

Q. What about the Hotel Royal?—A. I do not know anything about it, sir.

Q. Are there any but mattress voters in the Hotel Royal?—A. I do not know anything about it, sir. I do not know anything about it, sir.

Q. Do you know where the Hotel Royal is?—A. I think it is on Court Street.

Q. On what street?—A. I think it is on Court Street.

Q. The Hotel Royal?—A. I think so.

Q. I have in mind—now, you have it fully in mind?—A. I think that is the Hotel Royal. I may be wrong, but I think that is the place. I never was in there in my life.

Q. How many mattress voters are registered from that house?—A. I do not know, sir.

Q. Is it a house you have ever been in?—A. No, sir. I never was in there. Never was in there in my life.

Q. Is Beatty a mattress voter?—A. I do not think he is.

Q. Where does his respectable wife live?—A. I don't know that, sir.

Q. And where is his respectable home?—A. The Hotel Bellevue is where he lives.

Q. Does his wife live with him?—A. I do not know.

Q. Do you know his wife—Dr. Mary Moore—lives at his home at 1402 Commonwealth Avenue?—A. I do not know. I never met the lady. I do not know where he lives.

Q. Hasn't he told you where he lives?—A. No, sir.

Q. Haven't you telephoned to him at this home?—A. Never.

Q. Haven't you had a telephone conversation with your partner, Mr. Beatty, when he was at his home?—A. No, sir.

Q. Do you know his telephone number in Brookline?—A. No, sir; I do not. I know his telephone number elsewhere, but not home.

Q. Do you know Charles M. Hollander?—A. I know him slightly. If he was in a crowd I wouldn't know him, but I know who he is; but I do not know as I would pick him out of a crowd.

Q. Do you know he lives out in Roxbury?—A. I think he lives in his mother's hotel, down on Leverett Street.

Q. Where is that?—A. The corner of Leverett Street and Causeway.

Q. The corner of Leverett Street and Causeway? What is the name of the hotel?—A. Sir, I couldn't tell you that.

Q. Do you know his mother, as a matter of fact, lives at 84 Fenway, 64 Fenway?—A. I do not know where she lives. I know that is the hotel. They have a hotel. That is where they live, I believe. I never was in the hotel.

Q. Do you know Mr. Hollander votes in your ward?—A. Well, if you say so, sir. I do not know whether he does or not.

Q. Do you know Mr. Hollander has been served with a summons to appear here?—A. I do not, sir.

Q. Have you been in communication with Mr. Hollander?—A. No, sir.

Q. Or Mr. Hollander's attorney?—A. No, sir. What do you mean by "Mr. Hollander's attorney"?

Q. I am asking you if you had—— A. Designate who you mean is his attorney.

Q. You know who I mean.—A. Tell us.

Q. Tell us?—A. I am not going to tell you.

Q. Tell us if you have been in communication with Mr. Hollander's attorney.—A. You ask me if I have talked with Mr. Hollander's attorney. Tell me who is his attorney.

Q. I am asking you to tell me.—A. I do not know. That is a very broad question.

Q. Oh, no. It is a specific question. Have you been in consultation with Mr. Hollander's attorney?—A. State whom you designate as his attorney.

Q. I will ask you—— A. You will never get an answer from me until you do.

Q. I am not going to bandy words with you, sir. Is he a mattress voter?—A. Who?

Q. Mr. Hollander.—A. I do not know. Is he a single man?

Q. Is he a mattress voter?—A. Is he a single man? Then I will give you my definition.

Q. You are not going to ask me any questions.—A. If you made an examination and have it down there, married or single, black or white, if you have those things down there tell me whether it was married or single and then I will tell you whether he is what we call a mattress voter.

Q. Are you unwilling to state whether you have been in consultation with the attorney of Charles M. Hollander in reference to his—Hollander's—being summoned to appear here before Mr. Berman as notary, in order to give testimony in this case?—A. If you will designate who you mean is his attorney I will answer your question.

Q. Then, you are afraid to answer that?—A. I am afraid of nothing, sir; but I demand a square question.

Q. You are unwilling to answer it?—A. I demand a square question, and I will give you a square answer.

Q. Can you state whether you have been in consultation or not?—A. How do I know who Mr. Hollander's attorney is? I wouldn't know the man if he sat there. You asked me who is his attorney. I may have talked with him, in the door. Now, give me a straight question, and I will give you a straight answer.

Q. Do you know Robert K. McCurdy?—A. Yes, sir.

Q. Has he left town?—A. I do not know. What do you mean?

Q. Have you advised him to leave town?—A. I have not.

Q. Where does he vote?—A. I think McCurdy lives on Cambridge Street. I am not sure of the number, but I think he lives on Cambridge Street.

Q. Where does he vote?—A. I think that is precinct 6 or 7. I think it is precinct 6 or 7. Not exact, as those lines changed. I think it is precinct 6 or 7.

Q. Do you know he lives in Winthrop?—A. I do not, sir.

Q. Will you say he did not live in Winthrop last year?—A. I will say I do not know anything about it. How do I know where he lives? As a matter of common knowledge, I believe he has a summer cottage, where he goes to in the summer. I do not know anything about it. I never went there. I never met his wife. I do not know anything about it. I never was at his home; I never saw it.

Q. He is one of your precinct leaders?—A. He is active down there and has a part in the organization; yes, sir.

Q. Do you know he has been summoned to appear here?—A. No, sir; I do not.

Q. Haven't you talked with Mr. McCurdy since the 17th of February?—A. Yes, sir; I have talked with him.

Q. Haven't you talked with him in reference to this hearing?—A. No, sir.

Q. Do you mean to tell me you haven't talked to one of your ward leaders, a prominent man like Robert K. McCurdy, concerning this contest and the hearing that has been going on since the 17th of February, although you have talked with him during that time?—A. I haven't made any allusions to McCurdy. The last time I saw him he had rheumatism and was feeling pretty sick, and he talked about that; that was all, sir. I never talked about this hearing.

Q. Did he talk about going away?—A. He spoke something about it.

Q. He has gone away, hasn't he?—A. But he will be back in time for you when your time comes, if you want him.

Q. Will you advise him to come back?

Mr. FEENEY. Wait a minute, please.

Q. Will you advise him to come back?

Notary MANCOVITZ. Excluded.

Q. Will you do your best to get him back?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. It is no part of his business to do anything of the kind.

Q. Do you know Jeremiah J. McCarthy?—A. Yes, sir.

Q. Do you know he lives at 300 Revere Street, Winthrop?—A. I believe he lives on McLean Street, Boston.

Q. McCarthy, some years ago, had a controversy about the illegal registration in ward 8 at that time, did he not?

Mr. FEENEY. That I object to.

Q. (Continued.) With you?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. Now, I am going to find out if this man isn't going to answer questions that are pertinent—I want to know it. And if you want to take the responsibility, sir, of telling him that he doesn't need to answer any question, then you go ahead and do it.

Notary MANCOVITZ. I will take the responsibility, Mr. O'Connell.

Mr. O'CONNELL. All right. You take it. I am going to find out these things first. I am here to prove colonization that prevails down there and that has prevailed, and I am showing that it is a practice, and I am now going to show that this same Jeremiah J. McCarthy that we are inquiring about was one of the first to uncover practices in that ward, and that as the result of what McCarthy did, and the controversy he waged at that time, he was taken into camp by Mr. Lomasney and was given a position as a court officer that he now holds and that Mr. McCarthy brought to the public attention, and brought to Mr. Lomasney's attention, the illegal colonization of ward 5, and whenever the word "colonization" comes up now, the one man that he blames for turning it open to the light of day is McCarthy, and do you mean to say I haven't a right to show to Congress how this thing has progressed and how it has prevailed in that district, sir? It is the very crux of this whole case, and I am going to show it isn't anything new, and that this man is a practiced adept at it, and that in his practice he has gone back for several years.

Mr. FEENEY. Now, Mr. Chairman, it isn't of any more consequence as to whether Mr.—yes; he is getting a little bit undignified.

Mr. O'CONNELL. He said "dangerous." He said you were butting in again when I was getting Martin on dangerous ground.

Mr. FEENEY. It isn't—

The WITNESS. He never had me on dangerous ground.

Mr. O'CONNELL. Why don't you tell him to stop butting in?

Mr. FEENEY. He can't stop me any more than you can.

Mr. O'CONNELL. I don't want to stop you.

Mr. FEENEY. It isn't of any more consequence, Mr. Chairman—or Mr. Notary—it isn't of any more consequence whether Mr. McCarthy at some time previous had some investigation than it would be, than it would be, to show there was an investigation as to where my friend voted. That has nothing to do with this case.

Notary MANCOVITZ. That is why I overruled it. That is my opinion.

Q. Is Mr. McCarthy a member of the Hendricks Club?—A. Yes, sir.

Q. Is he a court officer working for Suffolk County?—A. Yes, sir.

Q. Did he secure that position through your aid?—A. Well, I think I said a good word for him.

Q. Is he a mattress voter?—A. No, sir.

Q. How do you know?—A. He has got no children.

Q. Oh, do you designate a mattress voter as—A. A man like you—I designate you a mattress voter.

Q. You know anything you may say about me, anything—A. And I designate Patrick Goggins a mattress voter—Tague's man.

Q. Let me say anything you can say, anything about me, Mr. Lomasney—A. Pardon me. Because you are in the case, and making so much talk about the poor men not coming here, and about that you are going to arrest them, and all those things. I was amazed, really, when Mr. Feeney brought out and I investigated and found you yourself was in the position, and I wondered at your audacity in standing up and holding these men and women to ridicule when you had such a glorious record yourself as a mattress voter.

Q. You know I am the father of five children?—A. I am glad of it. I hope to God they live and prosper; and that is why you are a mattress voter. If you had no children you wouldn't be called a mattress voter.

Q. Do you think you are helping Mr. Fitzgerald's cause by answering these various questions that I ask you—A. Pardon me, sir.

Q. By making an attack on me?—A. No, sir. I told you, Mr. O'Connell—

Q. Why do you keep doing it?—A. Because you called the people down here "slaves."

Q. Yes.—A. Why, because you said they were colonized by the organization. I find you yourself, an intelligent lawyer, a man of great ability—I find you, that did not depend on politics for a living, who was a Member of Congress, who has great capacity—I have found you were doing the very thing you said these slaves were doing, these slaves were doing. Then I said, "Can it be possible?" And I proceeded to investigate, and lo and behold! here is O'Connell doing the job himself. Now, I say you are a practiced, expert mattress voter.

Q. Now, Mr. Lomasney, you are on the stand and I am asking you questions.—A. Yes, sir.

Q. I hope you will answer the questions.—A. I will try to, sir.

Q. And not try to divert the examination by any collateral attacks on me.—A. Pardon me, sir. I accept your suggestion. Hereafter, sir, I will make no more allusions to your mattress voting; but don't again call them slaves.

Q. Mr. Lomasney, when I referred to your men being slaves, I meant it; and I meant it, sir, because they do what you tell them to do. They go here; they go there. I will instance it by Mr. Mancovitz. Mr. Mancovitz will do anything you tell him.

Mr. FEENEY. Are you asking a question?

Mr. O'CONNELL. And any other man that is in your ward that is a member of your organization, and I am calling them your slaves, and I am calling you their master, and anything you may say about me, about where I vote, anything about me has nothing whatever to do with what I have said about you and your mastery of that ward. I tell you now that you are the master of that ward, that you have been for 30 years, and that you hold these men in base slavery, that you exact from them their homage, and that you make them do what you want; and you showed it at the ballot-law commission when you

walked in at the head of 25 or 35, and you made them testify, when the majesty of the Commonwealth of Massachusetts could not bring them in.

Mr. FEENEY. Pardon me.

The WITNESS. Now, will you listen? May I answer that?

Mr. FEENEY. Pardon me, Mr. Lomasney. Pardon me. If my friend says that is a question that he is asking, then he is within his rights in putting a question.

The WITNESS. My answer is this——

Mr. FEENEY. Pardon me. If it is a speech he ought to be ashamed of himself. If it is a question, answer it.

The WITNESS. Mr. O'Connell, I say to you——

Q. What do you say about——A. In response to your question——

Q. About Charles Hart. I am asking my question myself.—A. I say, in response to your question, that these men are no more slaves than the men who were associated with you as long ago as the "red devil" Democracy of Dorchester were slaves. They brought you from obscurity and gave you a position in Congress by two or three or four votes. There was grave doubt whether you were illegally or legally elected, so that you ought to realize that and not call young men who raise people, help to raise them from obscurity to popularity and prosperity, not designate them as slaves.

Q. Well, it kind of rankles, doesn't it?—A. Nothing rankles.

Q. Nothing rankles? Now, what do you say about Charles Hart? Do you know him?—A. I do not recall that gentleman, sir.

Q. Don't recall him? Do you know that he lives outside of the West End?—

A. I do not know, sir. I know a Charles Hart. I do not know whether that is him or not. I do not think it is.

Q. Do you know he is living at 23 Irving Street, suite 8, and has six children?—A. I do not know that gentleman.

Q. Do you know he is registered and voting from the Lincoln House?—A. I do not know anything about it.

Q. Do you know of any man living at the Lincoln House with six children?—A. No; I don't.

Q. It would be absolutely impossible for the Lincoln House to take in such a family?—A. I do not know that, sir. They do some queer things in crowded localities. They have five or six children in a bed sometimes. They do that in those districts.

Q. Do you know Edward P. Clark?—A. Yes, sir.

Q. A great friend of John F. Fitzgerald?—A. I know the gentleman. I guess they are friends.

Q. You know they associate together and are in company a great deal together?—A. I never saw them in company. I don't be with them.

Q. You know he lives in Charlestown?—A. I do not know, sir. I think Clark—let me see—I think Clark keeps a place at the corner of Haverhill Street. I do not know where he votes from.

Q. Do you know he has been summoned to appear here?—A. No, sir; I do not.

Q. Do you know he is chum and associate of brother James Fitzgerald, a brother of John F. Fitzgerald?—A. Of course, I do not chum around with them much. I do not know, sir.

Q. You have seen them together?—A. No, sir; I never did. I know Clark is a friend of theirs.

Q. Will you help us to bring him in here?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded.

Q. Do you know Hugh Cannon?—A. I know several Cannons, sir, but I do not know him.

Q. Do you know Hugh Cannon who lives in Dorchester—38 Columbia Road?—A. There are several Cannons, sir. I can't recall them.

Q. Do you know Hugh Cannon, who is registered from 102 Endicott Street?—A. Several Cannons down there; lived there for years. They lived on Nashua Street before the Lowell Railroad was put up. They lived on Nashua Street.

Q. Do you know he has been summoned and hasn't appeared?—A. No, sir; I do not know.

Q. Will you help us to get him in?

Mr. FEENEY. I object to that.

Notary MANCOVITZ. Excluded.

Q. Will you help us to bring him in, Mr. Lomasney?

Notary MANCOVITZ. Excluded.

Q. Are you going to permit them to allow you to violate the law?—A. Mr. Feeney is the attorney for Mr. Fitzgerald, and I follow the leader with the flag. He is conducting the fight.

Q. Do you know Frank J. Moylan?—A. I do not think I know that gentleman. I may know him, but, of course, I know one Moylan, and whether that was the other one or not, I do not know. There may be more. I do not think I know them. Whether there was a Frank J., or a J. S., I do not know.

Q. Who votes from 35 Billerica Street?—A. I do not know, sir. I know Mr. Moylan. I do not know two.

Q. Do you know he lives outside of the district?—A. I do not know, sir, anything about him. Is he a single man or married man?

Q. Do you know Hymann S. Marks?—A. No, sir.

Q. Did you ever hear of such a man?—A. Never heard the name before.

Q. Do you know any of the men who vote from 19 Causeway Street?—A. Well, there is a lot of old-timers down there that have been there for years. I do not know them now. They might call my name, some of them, and they have been down there for years.

Q. I will give you a name—Hugh C. McGraw. Do you know him; do you know that gentleman?—A. Yes, sir.

Q. Is he a member of the Hendricks Club?—A. I wouldn't be sure, sir. He may be. Whether he has been dropped——

Q. Do you know he lives at 29 Mapleton Street, Brighton?—A. No, sir, I do not know where he lives.

Q. You know he don't live in ward 5?—A. No, sir.

Q. Don't you know after he married he moved out to Brighton?—A. I do not know about that, sir.

Q. Do you know where he is voting from?—A. No, sir; I do not.

Q. You know that he is registered from the Hotel Bellevue, don't you?—A. I did not know.

Q. Do you know he is superintendent of parks—assistant superintendent of parks—for the city of Boston?—A. I know he has a job there somewhere.

Q. You have known him and his family for a great number of years?—A. Known him when he lived in old ward 7.

Q. They have always been friendly with you?—A. Yes, sir.

Q. Hasn't Mr. McGraw consulted with you in reference to testifying here?—A. No, sir.

Q. Has he talked to you on the telephone?—A. No, sir.

Q. Have you sent word to Mr. McGraw by any of his brothers?—A. No, sir.

Q. Has Mr. McGraw or any of his brothers conferred with you, or any representative of yours as to the advisability of testifying here?—A. Not with my knowledge, sir. I know nothing about it at all.

Q. I do not know what you mean by "your knowledge."—A. You asked me a question and put in a lot of other things.

Q. Are you trying to evade that question?—A. Trying to give you an honest answer to an honest question.

Q. Are you trying to tell the whole truth?—A. Absolutely.

Q. Don't you know word came to you from McGraw's family?—A. From McGraw's family about this hearing?

Q. Did you send them word?—A. No, sir, I did not.

Q. You understand, you remember, of course, you are on the stand under oath, as far as that is concerned?—A. Pardon me; I have my senses.

Q. You understand the full value of what you are stating?—A. Unquestionably I know the value of an oath.

Q. You say you are 59?—A. I am 59 last September.

Q. Do you know Hugh McGraw's brother, Daniel J. McGraw?—A. Yes, sir.

Q. Do you know he is registered from 254 Tremont Street, Boston, whereas he lives on Mapleton Street, Brighton?—A. I do not know. I think he is a single man. I do not know where he is registered.

Q. Do you justify the registration of single men in your ward, although they live outside?—A. I justify the registration of a man who legally lives there.

Q. What do you draw the distinction between married men and single men for?—A. You made the distinction. You asked me to define a mattress voter.

Q. Do you know Thomas F. Lomasney?—A. Yes.

Q. Who is he?—A. A cousin of mine. He was voting in your ward. He was in ward 20.

Q. What is he voting in "your ward" for?—A. Because his mother died. He was living out there. She died, and he buried her, and he lived in town.

Q. Where was he born?—A. Tom Lomasney——

Mr. FEENEY. Wait a minute.

The WITNESS. I would just as leave tell. He was born in Concord or Sudbury.

Q. Has he lived in Boston all his life?—A. They say they have a record of me being born in Nova Scotia. Let them produce it. They tell me Mr. Harrington said I was born in Nova Scotia. Get the record and show me. I was born on South Margin Street.

Q. I am asking you about Thomas Lomasney?—A. Pardon me. You know him just as well as I do.

Q. I asked you where he was born. You say "born in Boston."—A. No, sir. I think he was born in Concord or Sudbury. I am not sure whether it is Concord——

Q. Where?—A. I am not sure whether it is Concord or Sudbury, Mass., or Waltham. I am not sure. I know it was that way somewheres.

Q. Do you know what became of him after he was summoned to appear here?—A. No, sir.

Q. Do you know where he is now?—A. I guess he has a place of business. He is a pretty thrifty fellow.

Q. Do you suppose it was as a result of his thrift that he disappeared after he was summoned to come here?—A. I do not know anything about that.

Q. Was it after conference with you?—A. No, sir. I assure you it wasn't. He is in business down there.

Q. Have you talked with him?—A. I have not; sir.

Q. Thomas F. Lomasney is a pretty thrifty man, you say?—A. A pretty wise guy.

Q. It runs in the Lomasney family?—A. Well, not always. We have our weaknesses, too.

Q. He is a merchant, you say?—A. He has been in the produce business down there for 40 years.

Q. And pretty well-to-do?—A. I guess he is. I wish I had——

Q. Do you know any reason why a well-to-do man should be living at 8 Bowdoin Street?—A. It is a pretty good place to live.

Q. Do you think so?—A. Sure.

Q. You don't live there?—A. I live pretty near it.

Q. Now, you know Thomas Lomasney doesn't live there, too, don't you?—A. I think he does live there.

Q. If he says he did not, he ought to know, hadn't he?—A. He is the one to get. Let him tell the story.

Q. If he said he did not live there, he knows what he is talking about?—A. I don't think he will say that.

Q. If he did say it, what would you say?—A. I don't think he ever said——

Q. Would you contradict him?—A. Of course, I know he lives at 8 Bowdoin Street.

Q. Would you contradict him?—A. He never said so. You know he never said so. You know the man.

Q. You know a lot of things about some people.—A. I know a whole lot about myself; that is all.

Q. Do you know David J. McCarthy?—A. David J. McCarthy? No, sir; I do not.

Q. Registered at 61 Allen Street?—A. No, sir; I do not.

Q. Will you help to bring in Thomas F. Lomasney?

Mr. FEENEY. Wait a minute.

Notary MANCOVITZ. Wait a minute.

Mr. FEENEY. I object.

Q. Thomas F. Lomasney is your cousin?—A. First cousin.

Q. You could consult with him then——

Mr. FEENEY. Wait a minute. I object.

Q. If he is living at 8 Bowdoin Street. If he is living at 8 Bowdoin Street, he is living very near you, you say, and will you help us bring in Thomas F. Lomasney?

Mr. FEENEY. Pardon me, I object.

Notary MANCOVITZ. Excluded.

Q. Are you afraid to answer these questions?—A. I am not afraid.

Q. I notice that you overruled Mr. Feeney when the spirit stirs you.—A. Pardon me. I did not intend to.

Mr. FEENEY. He did not overrule me, except when you referred to the Nova Scotia part, brother.

Mr. O'CONNELL. I never referred to Nova Scotia. I never used the word.

Mr. FEENEY. Up to that time I had been carrying the flag.

Mr. O'CONNELL. It may be a case where there is something in it, if he mentions it.

Mr. FEENEY. You sent Mr. Harrington down here.

Mr. O'CONNELL. It isn't so.

The WITNESS. You went over to the election board and told them, didn't you?

Mr. HARRINGTON. No, sir.

The WITNESS. You had a record of it in Nova Scotia. Now produce it.

Mr. HARRINGTON. Not at all. I never told them anything of the sort, nothing of the sort.

Mr. O'CONNELL. You brought the words "Nova Scotia" in here. Let me ask what do you mean by "Nova Scotia"?

The WITNESS. I told you. I heard it explained to me all around town. The word came to me that I better look out. They says, "You were born in Nova Scotia. Harrington said so." You know how those rumors come.

Mr. HARRINGTON. It isn't true.

The WITNESS. That you said it. That is all I know.

Mr. HARRINGTON. It isn't true.

The WITNESS. I said, "Let them produce it, anywhere I was born, because I was born in South Margin Street."

Q. You are the one that has lugged the words "Nova Scotia" into this thing. I never mentioned it.—A. I told you what Harrington was telling around.

Q. Somebody told you that he told you that?—A. It is a common story all around town.

Q. Yes.—A. They were calling people on the phone and saying. "Look out, now, they are spreading a story about that you were born in Nova Scotia."

Q. Did Mr. Harrington say anything at this hearing about it?—A. I do not know. I am telling you what Mr. Harrington says around the town.

Q. Have I said anything about you having been born in Nova Scotia?—A. No, sir. I said Harrington said it.

Q. Has there been anything brought in here by Harrington or myself about you being born in Nova Scotia?—A. People were calling up on the phone "Now, look out."

Q. Then you haven't—in fairness to Mr. Harrington and myself—A. Yes, sir. I want to be fair, Mr. O'Connell, absolutely.

Q. In fairness to both of us, has either one of us said a word about Nova Scotia to you in this hearing room or anywhere?—A. You haven't, sir.

Q. Has he ever said anything to you, personally?—A. Not a word, sir.

Q. In this hearing or elsewhere?—A. I haven't spoken to Mr. Harrington, I don't think, since this row started.

Q. So whether or not you were born in Nova Scotia has been brought into this thing by yourself?—A. Certainly, only Mr. Harrington was spreading the story around. I said, "If you have the record, produce your record."

Q. I suppose if you were born in Nova Scotia, you would not be ashamed of it?—A. Not a bit. It is a fine country.

Q. Why bring it in in this way?—A. Only to tell you what your associate counsel was talking around the town.

Q. You haven't talked with him about it?—A. When you talked about Tom Lomasney, I said, "Now, produce the record."

Q. What record are you talking about?

(Short recess.)

By Mr. O'CONNELL.

Q. Resuming the matter of colonization in ward 5, and endeavoring to find out all that you know about it, I want to make inquiry of you in reference to Charles L. Garvey, who lives at 68 Bakersfield Street, Dorchester.—A. Is that Garvey the blacksmith?

Q. That is the fellow.—A. He lives in ward 5 somewheres, but I do not know where he lives, exactly. Down in Pitts Street, he has a place of business there,

Q. He votes from 33 Lynde Street?—A. I do not know where he votes from.

Q. You helped him to get the blacksmith work connected with the fire department down there, did you not?—A. I do not think I ever did, sir.

Q. Is he a member of the club?—A. Yes, sir; I think he is.

Q. As a member of the club, he gets some of the patronage in connection with blacksmith work from the city of Boston?—A. I do not recall ever going after him to get him any work in the fire department.

Q. Did you ever send brother Joe?—A. No.

Q. Did you ever send anybody else?—A. Brother Joe has no reference to me—he is not a messenger for me.

Q. John I. Fitzgerald?—A. Of course, I do not know what he may have done. I don't think I ever spoke for Garvey in the fire department. I think I spoke for Garvey when Sheriff Quinn was there, to give him some jail horses. I do not know. I won't say anything about the fire department.

Q. Isn't it a rule of your ward that anybody that gets patronage of that kind must live in the ward?—A. Oh, no.

Q. Isn't it a rule that any man who is a member of the Hendricks Club must have a voting residence in that ward?—A. It is a very desirable thing to have. Our idea is that no man should be a member of the organization that don't live in the ward.

Q. That being so, you, to carry out that desirable end, insist on these men having a voting residence in your ward?—A. No, sir. The men come in and they state their residence, and we look them up, and if it is all right we accept them, if they are decent, proper and law-abiding citizens, we let them in.

Q. You won't say that Garvey doesn't live out in Dorchester?—A. I do not know, sir. I know he is around there daytimes, around there nights, so I do not know.

Q. Garvey says he lives the best part of the year out in Bakersfield Street, and simply comes to Lynde Street a few days before the 1st of April.—A. Is Garvey a married or a single man?

Q. Now, you know Garvey.—A. I do not know whether he is or not. I am only asking you. I thought you had a record of the investigation.

Q. You have no right to ask me questions. You are on the stand. You are the witness.—A. I thought you had it on the record you are reading there, and it might—

Q. I have the list that is in this record. Do you want to know everything that is in this record?—A. No. I do not believe that record amounts to that. You were talking about that record. Talking about that record, I understand that Mr. Tague had some men selected or had appointed in some ward going through this district with a shield—a shield as United States officers asking questions on the war fund, and representing that they were inquiring for the United States Government, and that Mr. Brogna caught one of those men, by the name of Ryan, who was a United States official looking up other things. That is a matter for the proper authorities to look after.

Q. You are under oath?—A. Yes, sir.

Q. And you know the penalties of perjury?—A. I know what I said.

Q. And are you making that statement under oath you just made?—A. I told you I understood that was so.

Q. You are trying to avoid it by saying it was understood. Are you trying to avoid perjury by saying that?—A. I don't avoid nothing, sir.

Q. Are you trying to avoid perjury by sneaking in that, are you?—A. No; I am not; but I am telling you—I asked you a question about the record.

Q. You have no right to ask me questions, sir.—A. I said that the story was that they were United States officers that he appointed who were on the pay roll of the United States Government with the badge of the United States Government making inquiries about war soldiers, and asking if they were not entitled to war funds, and then part of the time doing this dirty work, this stool pigeon work for him while on the pay roll of the United States Government.

Q. Are you saying that under oath?—A. I am telling you what they say.

Q. You want that under oath?

Mr. FEENEY. Yes; we will put it under oath.

Mr. O'CONNELL. You are not testifying.

Mr. FEENEY. And we will produce the credential we took away from him, too.

Q. Do you want to state that under oath?—A. Mr. Brogna is here. Am I not under oath?

Q. Is this under oath you are stating?—A. I am talking to you.

Q. You understand the penalties of perjury, don't you?—A. Let me tell you, you are more familiar with the necessity of the penalties of perjury than I am.

Q. All right. Bearing that in mind, are you making that as a charge against Mr. Tague?—A. I am telling you what I said right here. That man—they say this, I am not saying it, I am telling you what I heard.

Q. Going to get back to somebody else?—A. I am telling you what they say about Harrington. I told you about Harrington—I am telling you about this. You know what is sauce for goose is sauce for the gander, and when you bring in hearsay evidence, you must get hearsay evidence.

Q. I thought you would get away from that. —A. I am not away from it.

Q. Trying to get behind somebody else.—A. You keep your eyes on Tague there. He will faint pretty soon. I will tear the mask off him before this thing is over.

Q. Well, Mr. Tague has not been obliged to drink eight or nine glasses of water this morning to keep from fainting. He shows—A. I am not obliged to drink it for fainting. I have an affection of the throat, and you have never been able to talk me down, and you are 25 years younger.

Q. I hope I never will want to. Do you know Joseph Santosuosso who lives out at—A. Yes, sir; I do.

Q. 102 College Road in Newton, right out near Boston College? Do you know him very well?—A. I have known the doctor for years.

Q. He is a doctor?—A. I do not know where he lives.

Q. He was a doctor then and became a member of the bar?—A. Yes, sir.

Q. And now a practicing member of the bar?—A. I understand so, sir.

Q. And a man of some prominence?—A. And a man of ability.

Q. A man of ability?—A. Yes, sir.

Q. And you know that Dr. Santosuosso, Joseph Santosuosso, lives with his wife and family out near Boston College buildings at 122 College Road, Newton?—A. I do not know anything about it, sir.

Q. Don't you know he doesn't live in the Quincy House, Boston?—A. I do not know anything about it, sir.

Q. Do you know he has been voting in ward 5?—A. I think he has; yes, sir.

Q. Have you talked with the doctor?—A. I haven't talked with him in two years.

Q. With reference to his nonappearance here?—A. I haven't talked with him in two years.

Q. Did you tell the doctor to plead his wife was sick?—A. The doctor don't need any instructions from me to make a plea. He is one of the best lawyers in Suffolk County.

Q. Won't you answer the question?—A. I did, sir.

Q. Yes. Did you talk with the doctor that if it came up to having him get on the stand, it was better for him to take chances and stay home and allege sickness rather than expose himself to an examination as to his domicile?—A. No, sir; I did not.

Q. Did you talk with him over the telephone in the last three weeks?—A. No, sir; I did not.

Q. You know Dr. Santosuosso, Lawyer Santosuosso, as the case may be, has a family of three or four children?—A. To tell you the truth, I don't know anything about it.

Q. You know that before living out in Newton, that he used to live out in that ward you so often have taken the pleasure of referring to this morning, ward 20?—A. I do not know anything about that, sir.

Q. Don't you know that?—A. I do not know anything about that, sir.

Q. You knew he lived out that way, didn't you?—A. No, sir; I didn't.

Q. Didn't you have any idea of that?—A. You know the ward 6 part has only been in a couple of years. I will tell you something about that, so long as—

Q. Now, wait a minute. I am asking you about Dr. Santosuosso.

Mr. O'CONNELL. Of course, it is very apparent, Mr. Notary, that this man is talking for the benefit of the gallery that is assembled in this room, collected from the Hendricks Club and other friends. I would like to ask Mr. Berman, in the interests of decent conduct of this business, inasmuch as these outbursts of applause and demonstration seem to meet the approval of the notary—Mr. Mancovitz—who never says a word to repress these disorders and who smiles benignantly on them, showing that they are being perpetrated with his approval, if not sanction and inspiration—I am going to ask you, sir, as notary sitting in this case, to warn this crowd that has gathered in here that these demonstrations are unbecoming and that such demonstrations must cease.

Notary MANCOVITZ. Mr. O'Connell—

Mr. O'CONNELL. I am not talking to you, sir.

Notary MANCOVITZ. You will talk to me or you won't talk here at all. I am running this hearing, and not you.

Mr. O'CONNELL. Sit down, get down, sit down.

Notary MANCOVITZ. I am the notary, and you listen to me, sir.

Mr. O'CONNELL. Sit down; sit down. I am talking to a man here, Mr. Berman, that they must cease these demonstrations.

Notary MANCOVITZ. I want you to understand that I am the notary conducting the hearing.

Q. Mr. Lomasney, will you answer my question in reference to Dr. Santosuosso?—A. I follow the notary. Sit down, and take your place. Let him run the hearing.

Q. What I want to ask you, sir, is in reference to Henry Gray. Do you know Mr. Henry Gray? Yes or no.

Notary MANCOVITZ. Just one moment, Mr. O'Connell.

Q. I am going to ask you, sir, do you know Henry Gray?—A. Give respectful attention to the officer of the law.

Q. I am asking you if you know—A. Give proper respect to the law that you have been calling on here to advocate, to obey.

Q. Are you afraid to tell us whether you know Henry Gray?

Notary MANCOVITZ. Mr. O'Connell—

Q. Who is supposed to be living in property owned by you at 1 Dillaway Street, with his wife, when, as a matter of fact, he lives in Jamaica Plain, at 8 Bardwell Street. You know him, don't you? Don't you know him?

Mr. FEENEY. Wait, please. Now, Mr. Notary—

Notary MANCOVITZ. Mr. O'Connell, I am going to allow you three minutes to retract your insulting remarks made in this hearing. I am sent here to conduct this hearing and not you, and if you don't retract your remarks I will ask the other counsel to proceed and you shan't proceed here.

Mr. O'CONNELL. We will proceed.

The WITNESS. I hope you won't drive them out of this thing.

Notary MANCOVITZ. I will suspend this hearing with the witness until he retracts his insulting remarks.

Mr. FEENEY. Mr. Notary, in behalf of Mr. Fitzgerald and in behalf of Mr. Tague, so that Mr. O'Connell will realize, perhaps, that he has had the opportunity to ask all the questions that he has prepared, I would urge that you permit him to continue with this hearing, because, really, I do not think we would enjoy it unless he continues.

Notary MANCOVITZ. Mr. Feeney, I won't let—

Mr. O'CONNELL. If you call it an insult here to call attention to these demonstrations in this court room, and if you want to say it is an insult for me to call it to your attention and to state that they are laughing at these demonstrations, call it an insult; you do what you please. I will go on with this hearing. Every time there is a manifestation of disorder in this room I will call it to the attention not only of you, this court, but to all the public, and you won't get away with any bluff by packing this room with the Hendricks Club and their supporters.

Notary MANCOVITZ. The only man who acted disorderly here has been yourself, as a bully.

Mr. FEENEY. Pardon me, just wait until the stenographers get a chance to catch up with them.

Mr. O'CONNELL. Your bluff—

Mr. FEENEY. Wait until the stenographers get a chance to get up with this disorder. I do not want another one to faint on my hands through Brother O'Connell.

Q. Is Martin fainting?—A. Not on your life.

Q. He is come to life?—A. I am always alive. I make you sit down every time.

Q. The notary is the only gentleman.—A. I will put your own stool pigeon under the table before I am through with him. Do you want me to read the letter, Peter? Why don't you stand up like a man and say yes? Why don't you stand up and say yes, and be a man, be a man? Defy me, defy me, defy me? Take your seal of confidence off. Don't be a coward.

Q. Will you please compose yourself, Mr. Lomasney? Will you please compose yourself?—A. Pardon me; yes, sir.

Q. Are you composed enough now to answer questions?—A. I am always composed enough to take care of you.

Q. I am not asking you to take care of me, sir. I can take care of myself.—
A. Pardon me. I withdraw the remark.

Q. I want you to distinctly understand——A. Pardon me; I withdraw the remark.

Q. Anything you may say about me——A. I withdraw the remark.

Q. Has nothing to do at all with this case.—A. We got into the argument. I did not want to do that. Pardon me. I am hot, just as you are.

Q. I don't want you to say I am hot, as far as this hearing is concerned, because I am asking questions.—A. Excuse me, sir; I beg your pardon.

Q. Do you know Henry——A. I want to be gentle with you.

Q. Have you got excited because I started to ask you about Henry Gray?—
A. No.

Q. Is that what started you on that?—A. No. I am hot, that is all.

Q. Why did you get so excited?—A. I am not excited. I am cool as a cucumber. Peter didn't get very excited, did he?

Q. You don't see anything to get excited about?—A. He lost his speech. He will lose his smile before he gets through.

Q. You seem to be willing to invoke all the venom you can, the abuse, anything you say about Mr. Tague, and you seem——A. Because he has descended to such dirty, disreputable tactics.

Q. Have you finished in what you had to say about Mr. Tague?—A. Yes, sir; I am through.

Q. Are there any other epithets you would like to call him?—A. No, sir. Pardon me; no, sir; no, sir.

Q. Have you finished hurling epithets at him?—A. I am sorry you don't like it.

Q. I am not asking you, please, to please me.—A. Get the fan, get the fan and fan him.

Q. What do you mean by that?—A. Get the fan and fan him. If he is going out, revive him.

Q. Do you think you are adding to the dignity——A. Pardon me; no, sir; but you started this kind of procedure.

Q. I am asking you in reference—if you have finished?—A. I am through.

Q. Your epithets?—A. I am through now. Proceed sir.

Q. Remarks with reference to Mr. Tague?—A. Proceed with Mr. Gray. What is the question?

Q. Now, when I started to ask you about Mr. Gray, you interjected all these——A. Now, that is past history. It is in the stenographer's report; so go ahead with Mr. Gray.

Q. Have you done that simply to get it into the stenographer's record?—A. Do you want to go any further with it or go ahead with Mr. Gray?

Q. Answer my question. Did you make those epithets——A. I made no epithets.

Q. Or designations of Mr. Tague in order to get it into the record?—A. He was there smiling cynically, and I thought I would pass him something to make him think.

Q. You wanted to make him uncomfortable?—A. He may be uncomfortable. I know he is bad enough now.

Q. And you intend to keep making him uncomfortable in every way you can?—
A. I do not want to make any human being uncomfortable.

Q. Didn't you just state you wanted to make him uncomfortable?—A. He was smiling jeeringly at me. I passed him—it is over.

Q. Do you think it is over? Don't you think he is going to have an inning?—
A. I am here. You are having your innings. Proceed.

Q. Have you anything more to say about Mr. Tague?—A. (Continuing.) To the question of Mr. Gray; you wanted to do it 10 minutes ago.

Q. I started with that, and you got in about Mr. Tague.—A. That is history. Now proceed with Mr. Gray.

Q. I want to clean everything off the boards with you.—A. Take everything off the board. The board is clear.

Q. Before I get to Mr. Gray, have you anything else to say about him?—A. I have lots to say about him when the proper time comes.

Q. What do you mean—what do you call the proper time?—A. When you ask me the proper questions.

Q. Why don't you answer questions when I ask them?—A. Pardon me. I try to answer them.

Q. You have refused to answer any number of my questions this morning.—A. I don't intend to, sir. Of course, Mr. Feeney, acting for John F. Fitzgerald, I

am just in the same position I was when I went down to Mr. Hurlburt and wanted him to bring a writ of prohibition, when Mr. Fitzgerald said stop, I had to stop. When Mr. Fitzgerald's attorney, Mr. Feeney, says that is unlawful, and he don't want it in, of course, I must follow the leader with the flag.

Q. So, outside of the questions that Mr. Feeney stopped you from answering you are willing to answer questions?—A. I think I have done pretty well for an old-timer.

Q. It is very evident you are pretty practiced in it.—A. Never was on the stand, I don't believe, but twice in my life, but I am able to take care of you.

Q. Yes—you can take care of me when you are on the stand, when you have the full field to yourself, when you can say anything you please.—A. I want to be a gentleman.

Q. When you are not called to order by anybody.—A. You keep sticking a knife into me—putting a knife into me—our blood is the same, and when two Greeks meet there is a tug of war.

Q. You believe then, instead of answering questions to me, that you prefer to go far afield?—A. I don't want—I want to answer your questions if you ask me. I will try to. I don't want to do anything that is improper.

Q. I asked you about Henry Gray?—A. Yes, sir.

Q. Will you please answer the question?—A. Please repeat it.

Q. I asked you some time ago.—A. Pardon me, sir. What was it?

Q. I asked you a long time ago—with all these interruptions—A. I do not recall it, sir.

Q. My question originally to you was, if you knew Henry Gray?—A. Henry R. Gray?

Q. Henry R. Gray. Who is he?—A. He is a citizen of ward 5.

Q. He was prominent in the politics of ward 5?—A. Yes, sir.

Q. He was a precinct officer?—A. I think he was, in old ward 8, sir.

Q. And for irregularities there he was dismissed for—A. I do not believe that is so, sir.

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Wait a minute.

Notary MANCOVITZ. Excluded.

Q. Don't you think that is so?—A. I do not think so.

Mr. FEENEY. I object. We are not trying Mr. Gray now.

Mr. O'CONNELL. Every time I get on a little dangerous ground Brother Feeney has to come to the assistance, to his assistance. Why are you afraid to let me ask about Gray?

Mr. FEENEY. Because I want to get through with this hearing, and I haven't got a rich financial interest to pay the stenographer's bill that is running on from day to day.

Mr. O'CONNELL. But you have a rich client, haven't you?

Mr. FEENEY. No; I haven't a rich client.

Mr. O'CONNELL. I thought he was a multi-millionaire—in Bethlehem Steel.

Mr. FEENEY. I do not know where you are getting it, either.

Mr. O'CONNELL. Well, I will do my own worrying.

Mr. FEENEY. I am worried about it.

Mr. O'CONNELL. I hope, though, you won't have to sue, the same as Mr. Albers.

Mr. FEENEY. I assure you I won't have to sue the same as Brother Albers, because I never take any chances.

Mr. O'CONNELL. Then, is it true you held him up last Saturday and made him pay before you went on. Is that why you continued the hearing last Friday?

Mr. FEENEY. Never mind whether it is true or not. I assure you there will be no suit brought.

Q. Do you know Henry Gray votes in your ward?—A. I think he does, sir.

Q. Do you know he lives in Jamaica Plains?—A. I do not, sir.

Q. Do you know whether or not Mr. Gray has been down to your club within the last three weeks?—A. I think he has, sir.

Q. You have talked with him?—A. No, sir; I haven't.

Q. Although he has been in the club?—A. Why, no; I do not talk to everybody that comes into the club. We have big quarters.

Q. Didn't you talk with Henry Gray, who was summoned to appear here?—A. No, sir.

Q. Didn't Mr. Gray go down there and tell you that he had seen me?—A. No, sir.

Q. He did not?—A. He did not, sir.

Q. Did he tell you what was said?—A. No, sir; he did not.

Q. Did not?—A. No, sir.

Q. Are you positive now?—A. Absolutely.

Q. What did you tell Mr. Gray when you spoke to him?—A. I did not talk to him at all.

Q. Did you say anything to Mr. Gray about not coming here?—A. No, sir; I did not.

Q. Mr. Gray has been prominent in ward 5 politics?—A. He is an active worker.

Q. Yes.—A. Yes, sir.

Q. And do you know any reason why he should not be here?—A. Of course I can't tell you any reasons. What kind of a question is that for me to answer?

Q. Have you objection to bringing him in here?

Notary MANCOVITZ. Excluded.

A. You know that Mr. Feeney is the man.

Q. You brought him before the ballot law commission.—A. I have no objection personally.

Q. Henry R. Gray was one of the men you brought before the ballot law commission?—A. Henry R. Gray appeared before the ballot law commission. You and I were fighting; sometimes the whole of us.

Q. He was one of the men you brought in?—A. Yes, sir. He came in.

Q. If you brought him into the ballot law commission, why don't you bring him in here?

Mr. FEENEY. Now, wait a minute.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. It is no part of his duty to bring any witness in here.

Mr. O'CONNELL. It wasn't his duty, then.

Mr. FEENEY. He came in.

Mr. O'CONNELL. And he brought him in.

Q. Why don't you bring him in now, Mr. Lomasney?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Pardon me; that I object to.

Q. Do you know Edward F. McGinniss?—A. Yes, sir.

Q. Is he a city employee?—A. I think he is, sir.

Q. And works in the park department?—A. Works in some department—I wouldn't say the department.

Q. He lives in Charlestown?—A. I think he lives on Leverett Street.

Q. Votes from Leverett Street, you mean?—A. Yes. Lives in Leverett Street. His mother lives in Charlestown.

Q. His mother lives in Charlestown?—A. He is a single man.

Q. Is he a member of the club?—A. I am not so sure about that, sir. I won't say.

Q. Isn't he one of the men that has to do with the registration of voters?—A. He is an active young fellow down there.

Q. Isn't he one of the men who, with Mr. Mancovitz, who sits here, and with Robert K. McCurdy, who has been summoned to appear, and others, take charge of the Lucerne and the Lincoln Houses; and the Merrill House and the Hotel Royal and the other places where colonization takes place?—A. Not to my knowledge. I do not know anything about that.

Q. Isn't Edward F. McGinniss the man who was given charge of the Hotel Lucerne?—A. Not to my knowledge.

Q. (Continued:) Colonization?—A. Not to my knowledge.

Q. March 31?—A. I do not know anything about that.

Q. Was he around the Hendricks Club on the 31st of last March?—A. Last March? I couldn't tell you, sir.

Q. On the 31st of March, a great number of men come around the Hendricks Club, do they not?—A. Oh, no; no; no; no; no.

Q. Is there any reason why Mr. McGinniss should be there that night?—A. Why, Mr. McGinniss or you are privileged to come there any night.

Q. Was there any reason why Mr. McGinniss should be there? Did he have any particular work to do?—A. I did not see him there. I do not know. You better talk with him. You had him here.

Q. Do you know John A. McGinniss?—A. No, sir; I do not.

Q. Do you know John Cuneo?—A. No, sir; I do not.

Q. Do you know—he lives——A. I do not know the gentleman at all.

Q. In East Boston?—A. I wouldn't know him if he sat there.

Q. Do you know John J. Grant?—A. Yes, sir.

Q. Who is he?—A. He is a young fellow who used to be associated in the office of Joshua B. Holden and now in the office of George Holden Tinkham, attorney at law.

Q. He lives at the Boulevard in Lynn?—A. I think he lives in the Crawford House.

Q. Are you familiar with him?—A. Oh, I haven't seen him, I don't think, for—I might have—I don't think I have seen him for a year or two.

Q. Why did you say you think he lives in the Crawford House?—A. Because you started about the Boulevard. I told you I thought he lived in the Crawford House.

Q. Have you called on him at the Crawford House?—A. No, sir; I haven't been in the Crawford House for years.

Q. Do you know Bernard E. Grant?—A. Yes, sir.

Q. He is a brother of John J. Grant?—A. Yes, sir.

Q. Do you know he lives in the next house to John J. Grant, down on the Boulevard in Lynn?—A. I know he lives in the Crawford House. I don't know what he has in Lynn. I suppose he may have a summer home there.

Q. Bernard E. Grant is a member of the Hendricks Club?—A. No, sir; he is not.

Q. You are associated with Bernard E. Grant?—A. No, sir; I lease him a ledge under a good business lease. He settles for every ton of stone he takes out.

Q. He handles the Republican end of the ward with you?—A. I do not think he does; no, sir. He isn't in that end now. I think he is out of politics. He used to be in, in old ward 8.

Q. Is he on the Republican State committee?—A. I think he was last year.

Q. Wasn't he elected for this year?—A. I do not know, sir; I haven't seen him.

Q. Who did you put on in his place?—A. I do not know who was put on in his place.

Q. I asked you who you put on in his place?—A. I put on nobody, sir.

Q. You had Grant sign the circular that you had printed for Fletcher?—A. Well, I do not know as I had it done. I think Grant signed the circular for Fletcher.

Q. Where was it printed?—A. I think it was printed in John Marno's. I wouldn't be sure.

Q. Who paid the bill?—A. I think I may have paid the bills. That is a matter of record in the Secretary of State's office, if you will get the record of the Secretary of State.

Q. Do you mean the members of the Hendrick Club are paying the bills for a Republican candidate for Congress in that last congressional fight?—A. There was a fight on for Congress. Fletcher was the Republican candidate. There was the necessity of every Republican being held in line to divert votes straight to the Republican Party, and the man who had charge of the organization, and I am very certain of the printing part of the organization of our ward, was a pretty capable fellow, and I hate to say it but unfortunately that poor fellow, too, is dead. He had charge of that whole matter, and he proceeded to do it in his own way. He was a very capable man at that work. His name was Frank Clair. He handled all that matter, detail, and I had nothing to do with it.

Q. You paid for it?—A. The organization paid the bill, sir.

Q. You signed the check?—A. There were no checks. We never have——

Q. Who gave the money?—A. Sir?

Q. Who gave the money?—A. I think Marno was paid the money.

Q. By whom?—A. I do not know, sir, whether Clair paid——

Q. You are the organization treasurer?—A. I am; of course I am.

Q. Are the man who paid the money?—A. I do not know. I do not know whether I gave him that money or gave Clair the money. I am not the ward committee treasurer.

Q. I am talking of the ward committee.—A. That money was paid out of the ward committee, a different organization entirely.

Q. A Democratic ward committee was paying for circulars for the Republican candidate for Congress?—A. They paid Marno for some circular. I don't doubt it is returned in accordance with the provisions of law. I am telling you all I know about it. You can't expect it any more fully, so you won't lose time.

Q. It was signed by Bernard Grant, the man you lease the ledge to?—A. I do not know. The man who had charge of that thing, unfortunately, I say I regret it exceedingly; he is dead.

Q. Have you a copy of that circular?—A. I haven't, sir.

Q. Where is it?—A. I do not know. I may have one. I do not recall it.

Q. Is it in your files?—A. I do not know, sir.

Q. Will you look for it when you go back?—A. If I can find it, I will be glad to bring it.

Mr. FEENEY. Pardon me. Pardon me. I object.

Q. Will you bring it in the afternoon, when I resume?—A. Settle it between yourselves.

Q. I won't settle it. You are the witness.—A. I am following the leader with the flag.

Q. I have nothing to settle with him. Will you produce it?—A. I will do what Mr. Feeney says is legal and proper.

Q. Have you any objection to producing the circular signed and gotten out by the Democratic ward committee—signed by Bernard E. Grant, and paid for by the Democratic ward committee, for the election of the Republican candidate for Congress, Hammond Fletcher, in that fight?

Mr. FEENEY. He said he had no objection, but I have. It has nothing whatever to do with this case.

Notary MANCOVITZ. The objection is sustained.

Q. Who was treasurer of the ward committee?—A. I think James J. Ryan.

Q. Who was treasurer of the ward committee last year?—A. James J. Ryan.

Q. Will you tell me why David Mancovitz, who sits here as notary in this hearing, signed the report as treasurer?—A. I think it was Ryan.

Notary MANCOVITZ. I haven't been treasurer for 10 years.

The WITNESS. I said Ryan. I don't think that is so. I think it was James J. Ryan—my memory against anybody else's, but I will bank on my memory.

Mr. FEENEY. Now would be a good time to produce that statement.

The WITNESS. I think it is James J. Ryan. I don't want to mislead you. I think it is James J. Ryan.

Q. Is Mr. Mancovitz a member of your ward committee?—A. I think he is, sir. Of course, I don't want to swear absolutely. I think he is, sir.

Q. Does he hold any office in your organization?—A. Yes, sir. I think he is one of the board of directors of the Hendricks Club, also.

Mr. O'CONNELL. Well, I will take that up later.

Mr. FEENEY. Finish it now. You have made an accusation here. Now, produce the goods.

Mr. O'CONNELL. I will put it in when I want to.

Mr. FEENEY. You can't put it in at any time, because you know it isn't so. Produce the goods.

Q. Mr. Lomasney, do you know Raymond J. Reynolds?

Mr. FEENEY. Won't you please put in now that return signed by Mr. Mancovitz that you and your coterie here say you have got?

Mr. DANIEL O'CONNELL. We will put it in before the hearing is over.

Mr. FEENEY. Put it in now, after having had your brother's help.

Mr. DANIEL O'CONNELL. He never objected to my help.

Mr. FEENEY. Let us get that return, signed by David Mancovitz.

The WITNESS. I think Mr. Mancovitz may be the justice of the peace.

Mr. FEENEY. Of course, the notary that signed it. But they don't know the difference.

The WITNESS. I don't say that is so, gentlemen, but I think he may have sworn him.

Mr. O'CONNELL. Coming to your assistance again, because he thinks you need it.

Mr. FEENEY. Trying to explain to you what a document means.

The WITNESS. I try to get along in my own way.

Mr. O'CONNELL. You are trying to do everything to obstruct this hearing. I am trying to speed it up, and I want you, Mr. Feeney, to please desist from these continuous interruptions that you are interjecting every time that your fancy suggests it.

Mr. FEENEY. Oh, Brother O'Connell, don't you be worried about me. I am taking care of myself.

Q. I am asking you about Raymond J. Reynolds. Do you know him?—A. Yes, sir; I do.

Q. Do you know he lives at 52 Powder House Boulevard, Somerville?—A. He keeps a liquor shop on Green Street, right opposite the club room. I think he lives in the Crawford House.

Q. You are pretty familiar with the residences of the liquor dealers in your ward?—A. They are all good fellows.

Q. I am not saying anything against them. You are able to have them register in your ward?—A. No, sir.

Q. Wherever there is a liquor license in your ward, don't you insist that the licensee live and vote in your ward?—A. No, sir; I do not. Why, there are more rum shops in our ward than in any ward in Boston.

Q. By that same token, there are more rumsellers voting in your ward?—A. I do not know about that. You have a lot in ward 20, old ward 20.

Q. Do you know that Mr. Reynolds lives with his sister—Mrs. Gorman—at 52 Powder House Boulevard?—A. I think Mr. Reynolds has testified here. He is the best fellow to know where he lives.

Q. Do you know Hugh F. Granger?—A. Yes, sir.

Q. Do you know that he lives outside of ward 5 and votes in ward 5?—A. I do not, sir.

Q. Is he a member of the club?—A. I am not sure. I think he is a single man. I do not know whether he is a member of the club or not. I won't say.

Q. Haven't you single-men members of the club?—A. Sure. We make no distinction.

Q. Why do you say "If he is a single man"?—A. I think he was married and his wife died, I think. That is why I made the distinction.

Q. Will you aid us to bring him in here?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded.

Q. Do you know Abraham Finklestein?—A. No, sir; I don't.

Q. Let me read you what Finklestein said about his registration.—A. It don't interest me, sir. I do not know him. I do not know the gentleman. If he sat here I wouldn't know him.

Mr. CALLAHAN. That is in evidence. What is the use of taking up the time.

Q. (Reading:) "Q. Where do you live?"—A. "I live at 27 Green Street."

Q. I am reading his testimony.—A. Oh, pardon me.

Q. (Reading:) "Q. What is your name, Mr. Finklestein?—A. Abraham Finklestein.

"Q. How old are you?—A. Thirty-six years old.

"Q. Where do you live?—A. 77 Savin Street, Roxbury.

"Q. That is in ward 16?—A. I couldn't tell you what ward it is in, but it is in Roxbury.

"Q. And where do you vote?—A. Down at a lodging house, 75 Causeway Street.

"Q. How did you happen to get there?—A. The people asked me to vote there and put your name on the list, something like that.

"Q. 'By people,' you mean whom?—A. Well, half a dozen in particular when it comes certain times they ask you if you are still going to vote. They simply take care of you.

"Who are they?—A. I don't believe I know any of them by name, to call them by name.

"Q. Members of the Hendricks Club?—A. I suppose they are.

"Q. They take care of you that way?—A. Yes, sir.

"Q. As a matter of fact, you lived out there with your mother in Roxbury for 10 years?—A. For 10 years.

"Q. And this is the practice you have continued your name in this place all this time?—A. Yes. I go down there and they tell me where they will put me. I don't go disputing about it or bothering about it."

In the cross-examination of the same man by Mr. Fitzgerald's attorneys he said he was asked (reading):

"Q. Have you ever asked your mother to give your name at 77 Savin Street or any other place the first of April? Yes or No.—A. I told her not to give it, knowing that I would be taken care of down in the West End.

"Q. Where did you sleep at the first of April?—A. Well, I work nights.

"Q. And sleep in the day?—A. I do when I get home.

"Q. Don't you sleep?—A. I had a couple a couple of hours' sleep this morning. I get a little sleep that way.

“Q. On April 1 of last year, where did you get a couple of hours' sleep? What I am trying to get at is, you sleep when you go home in Roxbury. Where do you consider your voting residence to be, Mr. Finklestein?—A. 75 Causeway Street.

“Q. And you asked people there to preserve that as your voting residence?—A. I do not believe I have asked them; I do not believe I did ask them. They simply say they will put you there, put you here or put you there, and that is all there is to it.”

Q. Now, to what extent, Mr. Lomasney, is the practice as related by Mr. Finklestein, under oath, pursued in the Hendricks Club?—A. Mr. O'Connell, that is a plant, and I will guarantee if you will let me cross-examine him, I will make him acknowledge it in half an hour. He is a plant.

Q. This evidence that came out is examination.—A. I am telling you he is a plant. Your folks—your Tague men probably put him in there.

Q. That is cross-examination brought out by your—A. You said to me—

Q. Your own attorney.—A. I am only telling you he is a plant, and if you will let me cross-examine him, I will make him admit it.

Q. Do you know him?—A. No, sir; I do not.

Q. So, not knowing the man—A. Yes; he is a liar and he is a knave, and I can make him admit it.

Q. Everybody that makes any charges—A. No, sir; they don't. There is another thing.

Q. Please wait a minute.

Mr. FEENEY. Have you finished your answer, Mr. Lomasney?

The WITNESS. Pardon me. You said something in there?

Mr. FEENEY. Finish your answer.

The WITNESS. Let me go and answer your question. Now, hold on for a minute, because you read me a long question. I made a note of it. Here is a man you summons in here. You are trying to get at the colonization proposition. You summons a man. He is a willing witness. You put him on the stand, and you do not make him tell a single man, the name of a single man, that was getting him to violate the law. “How much did you say? Describe the man. Where did you meet him?” How thoroughly did you go into him? Did you seek to get him to tell the truth? He said, “I think they might be members of the Hendricks Club, “But did you make him describe them? How long he knew them? Whether he worked with them, whether he played with them? Of course, you did not. That was a cold, cheap plant.

Q. Now, let us see. Your statement of it and insinuation against a man whom you have never seen doesn't make it so.—A. The statement you read to me; I wrote it down here.

Q. Let me call your attention, along with that, as to where the plant comes in; your attorney asked him this question—A. Not my attorney, sir—John F. Fitzgerald's.

Q. In cross-examination he said: “Have you talked with any one else in regard to this case since you received your summons?—A. I believe I talked with John I.” Now, then, if there was any plant, it would indicate it comes from Mr. John I. Fitzgerald, your associate, wouldn't it?—A. I do not think that John I. Fitzgerald was into any plant. I think Finklestein is a plant. There are other Finklesteins just the same way.

Q. Well—A. I say you had him on the stand, and if I was asking a man a question on the stand and he made such a statement as that, I would, if I was counsel for Mr. Tague, I would make him tell the man. Who done it the first year? Who done it the second year? Who done it the third year? I would give him a different examination than you gave him.

Q. Now, will you bring in the other witnesses and give us that chance or take that chance?

Mr. FEENEY. Pardon me.

A. Tell me who they are.

Q. I have named them off this morning.

Mr. FEENEY. He asked me the names.

Mr. O'CONNELL. I will give them.

Mr. FEENEY. Pardon me.

The WITNESS. These names of Finklestein's, I was talking about—these several men. Finklestein's, I was talking about.

Mr. FEENEY. Pardon me.

Mr. O'CONNELL. Mr. Feeney to the rescue again.

Mr. FEENEY. It doesn't become part of your duty to produce anybody here, and I object to it.

Q. You asked me to give you the names, and I will proceed to say they are as follows: Charles F. Gallagher. Thomas H. Keenan—A. I spoke of the several names he testified to on in there that he said were members of the Hendricks Club. I said, "Give me the names." I said, "You did not ask for their names," and then examine the witness. You did not ask the names and it was a cheap plant. If you let me cross-examine him, I will make him admit it.

Q. Will you still take the stand that it is a plant simply because you do not know the man who testifies that way?—A. Simply because you—what you read to me—and I do not know anything about it, and I said, "You are too successful a man and able an attorney to have such a witness before you without extracting more than you did, if it was not a plant, and you were told 'Don't go too hard on this fellow. We are using him.' " That is my view of it.

Q. I haven't said much to you. You seem to be all excited over this.—A. Because I am talking with you on this matter.

Q. Now, won't you calm yourself?—A. I am calm now, sir.

Q. And come down so you can discuss—A. I can discuss it. Proceed.

Q. Now, have you got over your excitement?—A. I am never excited.

Q. You just admitted you were a few minutes ago, weren't you?—A. I didn't say I was. Let me tell you, sir, the old "bean" is always pretty cool.

Q. What do you mean by that?—A. God Almighty, thank God, gave me will, memory, and understanding, and my old "bean" is pretty cool. I am taking care of you folks all right.

Q. You are pretty well satisfied with what you are doing?—A. I am pretty well satisfied. And as I look at Peter I get more satisfied.

Q. Now, Mr. Finklestein—now Mr. Finklestein's testimony, as I have read it, was published in the Boston papers the day on which it was given; it had headlines in most of the papers. You have been familiar with that fact now for over two weeks. Have you at any time, during those two weeks, made any effort to disprove a word that was said by Mr. Finklestein?—A. I never knew it, sir, until you read it just now.

Q. Didn't you see it in the papers?—No, sir; I did not.

Mr. O'CONNELL. I introduce at this time a copy of the Boston papers with Mr. Finklestein's testimony stated, and called your attention to that fact.

Mr. FEENEY. You will get that "later on," I suppose.

Mr. O'CONNELL. All right, if you wish, I will proceed and put that in later on. Mr. Feeney not objecting, that will go in, and I will resume on Finklestein later on.

Q. Do you know Michael F. Crosson and William J. Crosson?—A. I do not know. I ain't sure about them.

Q. From East Boston. Michael F. is an engineer?—A. Oh, yes; they live in the Revere House.

Q. (Continued.) City Hall?—A. Yes, sir.

Q. Do you remember the pair of them coming to you and crying that their mother had been summoned, and asking you what they were going to do?—A. They never saw me at all, sir; neither one of them.

Q. Did you ever have any communication with Michael F. Crosson?—A. I did not, sir.

Q. Don't you know that Michael F. Crosson has lived at 1088 Bennington Street, East Boston, with his brother, William J. Crosson, and their mother, and also another brother? Don't you know that?—A. I do not, sir.

Q. Don't you know that those two boys lived with their mother in East Boston?—A. I do not, sir.

Q. Have you ever known them to live at any house in ward 5?—A. I know they vote and they live in the Revere House. That is all I know.

Q. You know they vote in the Revere House?—A. Yes, sir; and live there.

Q. How do you know they live there?—A. Because they are there and because they do live there.

Q. Have you ever seen them there?—A. Never did.

Q. No; you won't tell us that you are sure they live there?—A. I am not swearing that, because I never saw them there. Of course, if it is my eyes you want seeing the men there, of course, I never seen them there.

Q. You say you know they live there?—A. It is as to how you designate it. That is what I understood—they live in the Revere House.

Q. Who told you so?—A. It is a matter of common knowledge.

Q. Did they tell you?—A. I am not swearing I saw them there.

Q. (Continued.) Did they tell you when they lived there? A. think one Crosson came to me asking me to do him a favor, and I think he told me he lived there.

Q. Is he a member of the club?—A. I do not know, I am sure.

Q. Are the two of them members of the club?—A. I do not know. I won't be sure.

Q. Are you willing to tell those men for whom you have done favors that it is their duty as American citizens to come in here——

Notary MANCOVITZ. Excluded.

Q. ——and testify?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Q. Are you afraid to answer the question?

Notary MANCOVITZ. Excluded, Mr. O'Connell.

Q. You know you did not pay any attention to him when he told you he was going to suspend the hearing, and now why pay any attention to him, either?—

A. I try to pay attention to everybody the best I can. We all get hot once in a while.

Q. When he made that?

Mr. FEENEY. All except Joe. He never gets hot.

The WITNESS. Well, he has got the same kind of blood.

Mr. FEENEY. Not my kind.

Mr. O'CONNELL. Thank God.

Q. Joseph F. Walsh?—A. Yes, sir.

Q. Do you know him?—A. Yes, sir; I do.

Q. Know him very well, don't you?—A. Yes, sir; I know him pretty well.

Q. What is his business?—A. I think he works for the city of Boston.

Q. Don't you know he does?—A. Yes, sir.

Q. You helped him to get the position?—A. A good many years ago I think I did.

Q. He is a member of the club?—A. No, sir; he is not.

Q. You know he lives out in Roxbury with his wife and children?—A. I think he lives in Cambridge Street somewheres.

Q. Whereabouts in Cambridge Street?—A. I couldn't tell you the exact number.

Q. You know he is a married man?—A. I do not know that for sure.

Q. You know he has a child 5 years old?—A. I do not; no, sir. I haven't seen Walsh—I haven't seen Walsh until I saw him at the hearing for practically five years.

Q. How does it happen Walsh isn't a member of the club if you got him the position?—A. I will tell you——

Q. Wait a minute until I finish. Don't be so anxious.—A. Pardon me, sir.

Q. How is it that Mr. Walsh, whom you got a position for——A. I didn't mean it, sir.

Q. In the city of Boston, whom you claim lives at Cambridge Street, doesn't happen to be a member of the Hendricks Club?—A. You know, a lot of them fellows, when they get up on the pay roll, they get on one pay roll and get off the other.

Q. Well, he keeps voting down there, you know?—A. Did you get my answer?

Q. Did you get my question? Will you answer my question?—A. What is the other question?

Q. I said he keeps voting down there?—A. I think he does.

Q. Well, you know he has been challenged for nonresidence there, don't you?—A. I believe that developed at the hearing.

Q. Have you talked with Mr. Walsh lately?—A. I have not.

Q. Why not?—A. Well, I am not dead stuck on Mr. Walsh.

Q. Why?—A. Pardon me; it is a personal opinion. I don't want to air my personal opinions.

Notary MANCOVITZ. Excluded.

Q. Now I am going to ask you about a man I know you know all about.—A. Go ahead, sir.

Q. Will you tell us all you know about him?—A. Well, say what you have to say first. I may not know anything about him. You can't make a deal with me until you put the goods on the table.

Q. By that you mean what?—A. When you ask me will I do something and wish any opinion from me, put your goods on the table and I will tell you.

Q. Mr. Feeney knows this man. He will tell you.

Mr. FEENEY. Mention his name. Pardon me——

Q. Will you tell me all all you about him and with reference to where he lives?

Mr. FEENEY. Now, wait a minute.

Q. Will you?

Mr. FEENEY. That is another——

Q. Going to do that?

Mr. FEENEY. That I object to.

A. I will do anything for you, Mr. O'Connell, if I can properly and legally—that Mr. Feeney says I can.

Mr. FEENEY. I object to that question.

Mr. O'CONNELL. That is the kind of promise you are always giving.

The WITNESS. I don't make a promise and then break it. It is up to the other fellows. I will do anything if you two gentlemen ask me to do it.

Q. This man I am going to ask you about is John F. Corcoran.—A. Yes, sir.

Q. You know him very well?—A. Yes, sir; I do.

Q. You know him extremely well?—A. Yes, sir; I know him since he lived in the same house on Billerica Street, when we were youngsters.

Q. And known him all his life?—A. That is, I suppose—let me see, I suppose that is—oh, I can remember, I was 59 last September. I suppose I can remember since I was 7 or 8 years old. I know him ever since.

Q. You know this: He is in the liquor business over in Charlestown?—A. Yes, sir.

Q. You know he lives at 14 Auburn Street, Charlestown?—A. I do not, sir.

Q. You know he has a voting residence in ward 5?—A. I know, sir, he lives in ward 5.

Q. Do you know where 14 Auburn Street is?—A. Certainly. I was health inspector there 14 years, and I know all the streets in Charlestown.

Q. You know who owns 14 Auburn Street?—A. No, sir.

Q. Are you interested in it?—A. Auburn Street? No, sir.

Q. Are you sure you are not interested directly in that house?—A. 14 Auburn Street?

Q. Yes.—A. No, sir; I have nothing to do with that. That was originally his father's house.

Q. Do you know that Mr. Corcoran's furniture and household effects that are not down at his summer home at Nantasket are at 14 Auburn Street, Charlestown?—A. Mr. Corcoran is a single man. I do not know where his summer home is or where any other home is. I know——

Q. What distinction do you draw about single men? Why did you say he is a single man?—A. Because I want to point that out to you, because as an expert old-time colonizer yourself you know the requirements.

Q. Now, you are not going to draw any red herring across the trail. I am asking you now about Mr. Corcoran and I intend to keep at it no matter—A. Repeat that question.

Q. And keep asking until you answer the question after you get through referring to me. It don't make much difference how often. You have done that 25 times. I am going to get these answers.—A. We will stay with you.

Q. Keep it going as long as you please.—A. We will stay with you.

Q. Now, then, why did you interject that Mr. Corcoran was a single man in reference to his registration?—A. Just came to my mind. My mind operates like that [snapping finger].

Q. You are a pretty smart fellow.—A. No, I am not; but I am a pretty slow fellow.

Q. And as the result of your statement of Mr. Corcoran being a single man, you think you have justified his voting in ward 5?—A. I don't attempt to justify nothing. He is an American citizen, born in the United States, and I think he can take care of himself. He is a substantial man.

Q. Does he come in the class of men whom you claim have a right to choose on the 1st of April where their domicile is because he is single?—A. Mr. Corcoran was born in the ward and has lived there.

Q. Won't you answer my question?—A. Mr. Corcoran was born in ward 5. He has lived there all his life, except the time he was in South America. He can select his domicile where he pleases, so long as he complies with the law. That is my answer.

Q. Won't you answer my question?—A. That is my answer.

Q. I will ask you the question again.—A. Proceed.

Q. I will ask you to give me a responsive answer.—A. Proceed, sir.

Q. Is Mr. Corcoran one of those class of men who, because he is single, comes within that class that you feel have a right to take their domiciles by electing on the 1st of April to vote in ward 5?—A. Mr. Corcoran is an American citizen and can take his domicile where he pleases. He can abandon one domicile and acquire another domicile any time he pleases at any time he desires to just the same as you or I or any other American citizen.

Q. So that is your justification for Mr. Corcoran living at 14 Auburn Street, Charlestown?

Mr. FEENEY. He hasn't said any such thing.

The WITNESS. I never testified to that fact.

Q. And vote in ward 5, Boston?—A. I never testified to that fact, sir.

Q. Do you think those two answers that you gave justified what Mr. Corcoran has done?—A. I do not try to justify Mr. Corcoran at all. He is able to take care of himself.

Q. Why doesn't he come here?—A. I do not know.

Q. He has talked with you?—A. Not on your life.

Q. Well, Mr. Corcoran says that he talked with you and you told him that he did not need to come.—A. I do not believe that story.

Q. If you will bring Mr. Corcoran in here and give me a chance to cross-examine him—A. You bring Finklestein in first and give me the chance. There will be "even-Stephen."

Q. Oh, no, Mr.—A. I will put the plant on Peter.

Q. We have had Mr. Finklestein in here and he has been cross-examined by your—you haven't brought Mr. Corcoran in here to be examined, and you haven't brought in all these others.

Notary MANCOVITZ. It isn't incumbent—

Q. Bring them in here and give me a chance.

Mr. FEENEY. Pardon me.

Q. I will show the planting you have done in colonization in that ward. I will show—A. I will show the planting you have done right in your own ward.

Mr. FEENEY. Pardon me.

The WITNESS. You were a lawyer of standing with a family, and you were a mattress voter yourself.

Q. You have been saying that all.—A. How it hits to get a man who is talking about people breaking the law to be found a lawbreaker in it himself. I do not say it is so.

Q. What are you talking about it for?—A. Because it is such a peculiar practice for you to be engaged in, when you are talking about all these other men shouldn't do it.

Q. Now, please answer my question.—A. Do you want to arrogate that right to yourself? Do you want O'Connell to do something because it is O'Connell and Mr. O'Connell can do this, and a poor slave can't do it?

Q. Excited again, are you?—A. Not on your life, but I got you where I want you.

Q. Look out.—A. I got the goods on you.

Q. Now, Mr. Lomasney, you are going to answer my questions.—A. Pardon me, sir. Present your questions.

Q. I want to know if you are justifying the vote of John F. Corcoran, your particular friend in ward 5, where he does not live, while he does live in Charlestown—

Mr. FEENEY. Pardon me. Wait a minute.

Q. I want an answer to my question, and you can talk about me until the cows come home; but after you have got through, you have got to come back and answer the questions.

Mr. FEENEY. Now, stop, please. I object on the ground that there is no evidence in this case which justifies the assertion that he lives in Charlestown, this man Corcoran.

Notary MANCOVITZ. And the opinion of the witness is immaterial.

Mr. FEENEY. You passed upon my objection?

Notary MANCOVITZ. The objection is sustained.

Mr. FEENEY. Do you remember how little Berman used to rule with you, Joe?

Q. You and Mr. Corcoran have been very, very intimate?—A. Oh, I have known him. We were youngsters together. I am a little older than he is.

Q. He comes over to the Hendricks Club a great deal and confers with you?—A. No; no, he don't.

Q. He has charge of sending out the lists?—A. No, sir; he has nothing of the kind.

Q. Doesn't he have charge of sending out the lists?—A. No, sir.

Q. The mailing lists on which the names are gotten out?—A. No, no, no, no.

Q. He is very prominent around there at election time?—A. We have a lot of prominent men there.

Q. What?—A. You will find there are a few prominent men around there. They aren't all slaves, you know.

Q. Hasn't John F. Corcoran charge of the list of names at the Central House?—A. The Central House? Where is the Central House?

Q. You know?—A. No, sir.

Q. He hasn't—A. I don't know anything about the Central House.

Q. Charge of the list of—A. I do not think he has charge of any house except his own.

Q. What house has he charge of the lists in?—A. I do not think he has charge of any house except his own house, where he lives himself, the same as you and I.

Q. Why doesn't he vote in Charlestown, where he lives?—A. I have nothing to say about that at all.

Q. Have you ever been to his home, which is given as No. 14 Dillaway Street?—A. No, sir.

Q. No?—A. Have I ever been there? I think I was in there once or twice, when I looked over the property before I bought it. No. 14 Dillaway Street, before I bought it, I looked it over.

Q. You own No. 14 Dillaway Street?—A. We have an interest there.

Q. Who is "we"?—A. Mr. Corcoran and myself.

Q. That is one of the streets, one of the houses that were owned by you for some time and where the city cut through a street up here?

Notary MANCOVITZ. Excluded. It is immaterial to this anyway.

Mr. FEENEY. What has that got to do with this, Brother O'Connell?

Mr. O'CONNELL. Don't get worried. You are getting excited.

Mr. FEENEY. Why don't you come on down to the issue here?

Q. You know John F. Corcoran never lived in that house at No. 14 Dillaway Street?—A. I do not know except what I believe. I believe he did.

Q. Have you ever been to that house, you say that you are interested in and that you partly own, and found Mr. Corcoran living there?—A. Mr. Corcoran collected the rents from that property. I do not know where he lived, anything about it.

Q. Won't you answer my question?—A. That is the best answer I can give you.

Q. Have you ever been to No. 14 Dillaway Street?—A. Not to see his room; no, sir.

Q. You have never seen his room there?

Mr. FEENEY. If you do not object, I will move we adjourn to 2 o'clock. If you object, I move we go ahead.

Notary MANCOVITZ. We will suspend until 2 o'clock.

MARTIN M. LOMASNEY.

(Noon recess.)

AFTERNOON SESSION.

2 p. m.

MARTIN M. LOMASNEY, cross-examination resumed:

By Mr. O'CONNELL:

Q. Have you got that list of members of the Hendricks Club?—A. No sir.

Q. Have you taken any action to bring it here?—A. Acting on the advice of counsel, Mr. Feeney, I have not.

Q. Do you intend to refuse to bring the list of Hendricks Club members here?

Mr. FEENEY. Now wait a moment, please; wait a minute. That I object to, as to what he intends to refuse.

Q. Do you intend to refuse to bring the list of Hendricks Club members here as ordered in the summons given to you to-day by the deputy marshal?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Objection sustained, and note Mr. O'Connell's exception.

Q. Will you answer the question?

Mr. FEENEY. I object, please.

A. I understand the notary to say the question was ruled out.

Q. But you are the witness, sir, and I am asking you the question.

Mr. FEENEY. Oh, I still object, if you will pardon me.

Notary MANCOVITZ. You need not answer.

Q. Do you intend to persist in refusing to bring us in this evidence as requested in the summons that was served on you?

Mr. FEENEY. This I object to.

Notary MANCOVITZ. The objection is sustained.

Q. Will you please answer me yes or no?

Mr. FEENEY. Oh, I object; wait a moment.

Notary MANCOVITZ. You need not answer the question.

Q. Do you refuse to answer?

Notary MANCOVITZ. You needn't ask the question. I have instructed him not to answer.

A. I want to say to you that 59, 61, and 63 Binney Street are the three houses I own there. You asked some questions about the numbers this morning.

Q. Won't you answer the question that has been—that I asked you, sir?

Mr. FEENEY. The question which you asked I have objected to, and it has been ruled out.

Mr. O'CONNELL. I want the witness to tell me whether he intends to bring in that list or not.

Mr. FEENEY. That I object to.

Notary MANCOVITZ. The witness need not answer. You may ask your next question.

Mr. O'CONNELL. For the purposes of the record I want to show by that list that I have summoned in the membership of the Hendricks Club, and their participation in the illegal registration and colonization of voters in ward 5, the Hendricks Club being the political organization—

Mr. FEENEY. Well, you have gone through that eight different times.

Mr. O'CONNELL (continuing). Concerning which there has been examination of this witness. I ask that they be brought forth in order that I may be able to examine and cross-examine on it.

Notary MANCOVITZ. Your exception will be saved, Mr. O'Connell.

A. Exhaust your own special forces first; put on your special force and your stool pigeons, and let's dispose of them first, and then we will take the other question up.

Q. I want you to answer my question, sir. Or was that the question? Do you think that was the question?

Mr. FEENEY. Wait a moment.

A. I tell you to bring your force of stool pigeons and finish those first, and then we can dispose of you afterwards, and them, too.

Q. In other words, you are not going to bring in the list.

Mr. FEENEY. Now, I object as to whether he is going to bring it, or not going to.

Mr. O'CONNELL. The witness shakes his head, indicating No.

Mr. FEENEY. Indicating disgust at you. The notary has ruled the question out.

Q. You shook your head in a negative way. Do I understand you to mean by that you are—A. Say—

Mr. FEENEY. I object. Mr. Lomasney, pardon me a moment. The notary has ruled the question out.

A. He objected to that, sir; and I always follow Mr. Feeney and the flag.

Q. Now, Mr. Lomasney, inasmuch as you refuse and persist in not bringing forward that list—By the way, have you got that list with you?

Mr. FEENEY. Wait a minute, please. That I object to.

Q. Have you got that list of the membership of the Hendricks Club in this court room?

Mr. FEENEY. That I object to.

Q. If you have, sir, I want you to produce it.

Notary MANCOVITZ. The witness testified he had no list with him.

Mr. O'CONNELL. You keep your place, sir. I am calling on this witness.

Mr. FEENEY. You keep your place, too, sir.

Q. Give us the answer to that.

Mr. FEENEY. Pardon me. I object.

Q. Have you got that list of the membership of the Hendricks Club with you?

Mr. FEENEY. Now, you may answer that question.

A. No, sir.

Q. Now, we will come back to Mr. Cochrane, whom you tried to divert us from this morning.—A. I don't remember of trying to divert you at all. He is all right.

Q. You and Mr. Cochrane are very strong friends?—A. Yes.

Q. You have traveled to Europe together?—A. Yes, sir.

Q. And you have traveled elsewhere in this country together?—A. What has that got to do with this question?

Q. Well, I am just showing how well you know him?—A. Well, get down to this question.

Q. You know him so well that you and he are partners in various matters?—

A. He and I, sir, have a joint interest in two parcels of property in this city.

Q. Yes; and you and he——A. It is no crime to buy property. It is kind of low now, but it is no crime to buy it.

Q. Did you have the suggestion of crime to you in order that you have got to defend it? Does that suggest crime to you?—A. No, sir; but I want to tell you the way you are talking.

Q. Are you seeking a defense of it, that it is no crime?—A. You say what you please and I will, too, and you know it was no crime, and that is why you are intimating it.

Q. Does that intimate a crime?—A. Certainly does intimate it to me. You said to-day something about putting Cochrane through. You can go into that subject all you want to.

Q. What did I say?—A. You read the record and you will find out.

Mr. FEENEY. Please don't attempt to tell him all he said to-day, or we will never get through.

Q. Will you tell me when you have discussed with Mr. Cochrane this contest between Messrs. Tague and Fitzgerald?—A. I haven't discussed it at all.

Q. At any time?—A. Why, certainly not.

Q. Never?—A. Certainly not.

Q. Now, you are on oath?—A. Why, I realize that, sir.

Q. And you know the penalty of perjury, don't you?

Mr. FEENEY. There you go again.

A. Well, you have known me a long time.

Q. Do you mean to tell us that you have not discussed with your intimate associate——A. Why, if you mean——

Q. (Continuing.) This contest?—A. And you didn't specify. You put a precise question and I'll answer it. Yesterday, to-day, or a week ago or a month ago? State your precise question.

Q. I am asking you if you did at any time since it started.—A. Of course, the contest; certainly we talked about the contest.

Q. Well, now, when was the last time?—A. Oh, I have probably—let me see; when was the election? Oh, I may have talked about it four or five times since the election.

Q. Have you discussed with him whether or not——A. What's the use of my discussing it?

Q. (Continuing.) He should come in here to testify when he was summoned to appear?—A. Oh, no, sir.

Q. Will you try to get him to come in here to testify?

Mr. FEENEY. Pardon me; I object.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. Coming to the rescue again.

Mr. FEENEY. Oh, no; but I think you ought to hire somebody else to help you, but you are not going to get my witness to do it.

Mr. O'CONNELL. Coming to his rescue again; Feeney to the rescue.

Q. Do you know James Lang?—A. Who, sir?

Q. Mr. James Lang——A. No, sir.

Q. (Continuing.) Who lives at 309 Medford Street, Somerville?—A. No, sir.

Q. And who is registered from 366—36 Billerica Street?—A. I don't know the gentleman.

Q. Do you know anybody by the name of Lang who votes in your ward?—A. No, sir; I don't recall the name.

Q. Do you know a Daniel P. McCarren?—A. No, sir.

Q. Who lives at 100 Princeton Street, Medford?—A. No, sir; I do not, sir.

Q. Who is registered and votes from the Lincoln House?—A. I do not, sir.

Q. Is he a member of the Hendricks Club?—A. I don't think so.

Q. Well, do you know Philip McGonagle?—A. Sure.

Q. Who lives at 10 Montfern Street, Brighton, Mass.?—A. I know Philip McGonagle, sir.

Q. Yes; and do you know he lives in Brighton?—A. I know he lives on Chambers Street.

Q. Don't you know that he is a married man?—A. I think——

Q. (Continuing.) And lives?—A. You mean Senator McGonagle, ex-Senator McGonagle?

Q. Well, you know Philip J. McGonagle, don't you?—A. Would you mind trying to—I am trying to identify him.

Q. Do you know a Philip J. McGonagle?—A. Ex-Senator Philip J. McGonagle, you mean?

Q. He is a court officer.—A. Yes, I know that, yes, well.

Q. Do you know that he has been summoned to appear here?—A. No, sir, I do not.

Q. Hasnt he told you so?—A. No.

Q. Will you help bring him here——

Mr. FEENEY. Wait a moment.

Notary MANCOVITZ. Excluded.

Q. He is an officer of the Massachusetts superior court, and they sit here in Boston, and although summoned by a United States deputy marshal, he has not shown up.—A. Well, can I help that?

Mr. FEENEY. Pardon me. The only question now before the notary is as to whether or not this witness is going out to drag him here, or help drag him here. To more than that I object; that I object to.

Notary MANCOVITZ. The question is excluded. You needn't answer.

Mr. FEENEY. He knows McGonagle hasn't been summoned.

Q. Have you talked with McGonagle about this matter?—A. No, sir.

Q. Do you know that McGonagle, although he lives out at 10 Montfern Avenue, Brighton, is registered from 44 Cooper Street?—A. I don't know anything about that. I think he has lived——

Mr. FEENEY. Finish your answer.

A. [Resumed]. I think he lived in the North End, but I think he is now living in Chambers Street.

Q. Is he a member of the Hendricks Club?—A. He is not, sir.

Q. He is prominent in politics, though?—A. Yes, he has represented that old district in the senate and the old ward 6 in the legislature and the common council, I believe.

Q. Do you know John D. Feeney?

Mr. FEENEY. Oh!

Q. Who lives at 29 Elm Park, Roxbury?—A. I was introduced to that man about, I think, a couple of weeks ago; two or three weeks ago.

Q. What was the occasion?—A. Just accidentally, but I don't know the man.

Q. Where?—A. Walking along the street.

Q. Who introduced you?—A. I forget now who was with me, but I think I met him on the street accidentally.

Q. What street?—A. Beacon Street. I was taking a walk.

Q. Where?—A. Out through Beacon Street.

Q. Who was with him?—A. I think he was alone.

Q. Who was with you?—A. I won't tell you the name of the man who was with me.

Q. Who introduced you to him, then?—A. The man that was with me.

Q. And you don't want to tell his name?—A. No, sir.

Q. Did you talk at that time about the fact that this fellow John D. Feeney had been summoned and wasn't coming?—A. No, sir.

Q. Do you know that he lives at 10 Lynde Street?—A. I do not, sir; I don't know anything about it, sir.

Q. Are you willing to ask him to come in?

Mr. FEENEY. Pardon me.

A. I never spoke to the man but once in my life.

Q. Are you willing to ask the man who introduced him to you to come here?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Q. If he will come in?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Excluded.

Q. Do you know Francis J. Gorman?—A. Yes, sir.

Q. Is he a member of the Hendricks Club?—A. I think he is.

Q. Does he work for the city of Boston?—A. I don't know, sir.

Q. Did you know that his name was voted on at election day?—A. I do not, sir.

Q. (Continuing.) From 36 Billerica Street?—A. I do not, sir.

Q. Will you try to get him to come in?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded.

Q. You know that he lives in the house with James A. Friel, don't you?

A. I told you that I didn't know anything about it.

Q. Do you know where James A. Friel lives?—A. James A. Friel? James A. Friel, jr.—

Q. Yes—A. (Continuing.) Or James Friel, which?

Q. James Friel.—A. James Friel lives at 36 Billerica Street, in the house—

Q. Where does James A. Friel, jr., live?—A. I think he lives—I think he lives there. I think that is the house I used to live in years ago.

Q. Do you own the house?—A. No, sir.

Q. Are you interested in it?—A. No, sir.

Q. Do you know whether or not Gorman lives in that house with the Friels?—

A. I don't know anything about that, sir. I believe they are somewhat related. I don't know whether he lives there or not.

Q. You do know that, don't you?—A. Why, certainly. I knew his father; knew his father 30 years ago.

Q. Exactly.

Mr. FEENEY. Suppose you take a seat, Mr. Lomasney.

The WITNESS. No, no. All right; thank you.

Mr. O'CONNELL. If at any time you feel that you want to, you are at liberty to do so without any comment from me.

The WITNESS. I thank you. I will take advantage of your courtesy.

Mr. O'CONNELL. Understand that.

The WITNESS. Much obliged to you.

[Laughter from persons in the court room.]

Mr. O'CONNELL. See how easy it is to get a laugh from that mob.

Q. Do you know Charles D. Celeste?—A. Yes, sir.

Q. You know he lives at 77 Princeton Street, Medford, don't you?—A. I do not, sir.

Q. You know he has lived in Medford for a long time?—A. I do not, sir.

Q. He is one of your precinct officers?—A. I think he was a precinct officer in that ward at some time.

Q. Did you know he has been summoned to appear here and hasn't shown up?—A. I did not, sir.

Q. Do you know any reason why it is that these prominent men are all—why all these men who were summoned should have stayed away from this hearing?—A. You can't ask me to tell another man's reasons.

Q. I am asking you if you know any reason?—A. Why, certainly not.

Q. Do you know Frank J. Callahan, who lives in Cambridge?—A. I know a young fellow named Callahan that used to live there years ago. I don't know whether it is the same man you mean or not. He used to run the Callahan Ice Co., if that is the man.

Q. Do you know where he lives in Cambridge?—A. I don't know, sir.

Q. And he voted from 3 Allen Street, didn't he?—A. I don't know, sir.

Q. Inasmuch as you know him pretty well, will you ask him to come in and testify here?

Mr. FEENEY. I object; pardon me, sir.

Notary MANCOVITZ. Excluded.

Q. Do you know Lawrence J. Follen, of Cambridge?—A. No. Larry Follen lives at the Derby House, and I have known him for years.

Q. Do you know he lives at 254 Brookline Street, Cambridge, and has lived there all his life, except when he was interested in the liquor business in Boston, since when he has been keeping a voting residence here in order to help the liquor question in Boston? Did you know that?—A. I don't know that, but I do know his place is on Cambridge Street, and I have known that for years, and I understood he lived at the Derby House. Of course, I never stood there to see whether he went in or went out. I never knew he had a residence in Cambridge.

Q. Don't you know all his family, including himself, have always lived in Cambridge?—A. I don't know anything about the gentleman's family. I only know himself.

Q. Will you try to get him in here? I will strike that off.—A. I am glad you are going to stop that nonsense.

Q. Well, I'll state to you, sir, that you may call this nonsense, but it is possible that there may be a change of mind on that. I stopped asking that question about Mr. Follen because Mr. Follen appeared and voted.—A. Stop asking me to go and do some things that you know these men are objecting to, and they have indicated what our procedure is; that's all.

Q. You are the witness, and you are the man I am going to hear a reply from.—A. Well, I'm here, and I'm on the job all the time.

Q. Do you know Robert Silverman?—A. Silverman; Silverman? Was that the Silverman that used to be the reformer? He was in that good-government outfit. I didn't know that crowd had got in here. Is that the fellow? Is that the Robert Silverman?

Q. Do you know a Robert Silverman?—A. I know a Robert Silverman.

Q. Who lives in Revere?—A. No; I don't know where he lives. There used to be a Robert Silverman a good many years ago in the Good Government Association.

Q. Lives at 50 Allison Road, or Allerton Road, Revere, and votes from 32 McLean Street?—A. I know there was a Robert Silverman, and I don't know whether that is the gentleman or not, but I don't know where he lives.

Q. Will you try to get him to come in here?

Mr. FEENEY. Oh, cease; cease.

A. I thought you were going to stop that.

Q. Don't fool yourself.—A. Oh, go ahead. I don't object.

Q. Don't fool yourself; not for a minute. Do you know John F. Meehan?—A. That sailor, the young fellow that come in at the ballot law commission?

Q. Yes; the sailor you brought there into the ballot law commission.—A. Sure; yes, I know him since he was born.

Q. Will you bring him here?

Mr. FEENEY. Pardon me.

Q. You succeeded in bringing him into the ballot law commission when the sergeant at arms couldn't find him.

Mr. FEENEY. Pardon me.

Q. Will you now try to bring him in so that Congress may have the value of his testimony?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Q. Do you know James F. Brown?—A. No, sir.

Q. Do you know a James F. Brown who registered from the Hotel Lucerne?—A. No, sir.

Q. Do you know Edward J. Mulvihill, who lives in Cambridge?—A. No, sir.

Q. And who is a bartender?—A. No, sir.

Q. And who registers from 31 Lynde Street?—A. No, sir.

Q. A man who has 10 children?—A. He is a good one, ain't he?

Q. Well, if he is good, for that reason he is ten times as good as you are.—A. Yes; that's right, but I meant he ought to go in Roosevelt's class.

Q. And that all those children go to the parochial school in Cambridge near his residence on Broadway; although he lives with the—with his wife and 10 children, he still votes at 31 Lynde Street, Boston. Do you know that man?—A. I don't know the gentleman; no, sir.

Q. Do you know Philip J. Doherty of—registered in—who lives in Charlestown?—A. I knew a Philip J. Doherty who lived down in Milton Street years ago, but I don't know where he is now.

Q. Have you seen him lately?—A. No, sir.

Q. I have reference to the Philip J. Doherty who boarded at 73 and 75 Causeway Street—the Lincoln House.—A. Well, I don't know the gentleman, sir.

Q. Do you know the Hotel Lucerne?—A. Yes, sir.

Q. That is one of the houses that are affected by the "true-name" law, is it not?—A. I think every house in the city that comes under certain provisions of law are affected by the "true-name" law.

Q. You have been active——

Mr. FEENEY. Pardon me.

Q. In trying to get the "true-name" law repealed, have you not?

Mr. FEENEY. Oh, cease; cease.

A. I have not.

Q. Your three representatives——

Mr. FEENEY. Wait a moment; I object.

Q. In the legislature——

Mr. FEENEY. To that I object.

Q. In the legislature have attempted——

Notary MANCOVITZ. Excluded.

Q. To do so, have they not?

Mr. FEENEY. I object.

Notary MANCOVITZ. The objection is sustained, Mr. Feeney.

Mr. FEENEY. Now, you needn't answer, Mr. Lomasney, and I will ask you not to, so that we may shorten this record.

Mr. O'CONNELL. I am going to show——

Mr. FEENEY. Another speech.

Mr. O'CONNELL. The significance of the true-name law and this man's organization's activity in it. The true-name law, so called, is for the purpose of——

The WITNESS. May I sit down a while?

Mr. FEENEY. Sure; go ahead and sit down.

Notary MANCOVITZ. Yes; you can sit down.

Mr. O'CONNELL. I have a few questions to ask you.

The WITNESS. I thought if you were going to give the true-name law I would sit down and then come up again.

Mr. O'CONNELL. Well, you had better think again.

The WITNESS. Thank you, sir.

Q. You know what the true-name law is?—A. Do I know? No; I haven't read it.

Mr. FEENEY. Wait a moment; I object.

Notary MANCOVITZ. That is immaterial.

Q. Do you know that the effect of the "true-name" law is that every man and woman who goes to a hotel must give their true names when they register?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Objection sustained.

Q. Now, that has meant that men giving fictitious names with women can not any longer go to these houses.—A. It is going to be pretty hard on us old timers, ain't it?

Q. Now, sir—now, then, sir, in order that these houses in this district where this registration is concerned may be allowed to pursue their practices of the past, have you not been interested in changing that law in this year's legislature, and have you not, in your activity, induced your three representatives, under the leadership of John I. Fitzgerald, to lead a fight for the change of that law, which was passed last year, and is it not a fact that as a result of the fight which they waged in the legislature in the lower house there was but seven votes cast for the change of that law back to its original form, and the seven votes were the votes of the three men whom you send from your ward 5, James H. Brennan, your friend who has been here at these hearings, from Charlestown, and two others or three others, who are also friends of yours throughout the great State of Massachusetts——

Mr. FEENEY. Now, wait a minute.

Q. And that the total vote was 200 and some odd to 7?

Mr. FEENEY. Now, wait a minute, please, if you have finished.

Q. Will you answer that question "yes" or "no"?

Mr. FEENEY. Now, wait a minute.

Notary MANCOVITZ. Question excluded.

Mr. FEENEY. I object.

Mr. O'CONNELL. Then if it is excluded and you object, then let me proceed.

Mr. FEENEY. Go ahead. No speech.

Q. The change back—the change of the situation by the "true name" law has meant that these so-called hotels in your ward have been hard hit; isn't that the reason that you are interested in the repeal of the law?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. He said he wasn't interested in the repeal of the law.

Mr. O'CONNELL. He is testifying now.

Mr. FEENEY. Pardon me.

Mr. O'CONNELL. He is testifying, not you.

Mr. FEENEY. I thought we were trying Peter Tague here.

Mr. O'CONNELL. He is testifying, and I am asking him questions.

Mr. FEENEY. Now, I object, on the ground that it is not relevant to the issue involved here.

Notary MANCOVITZ. The question is excluded. It has no bearing at all upon the question.

Q. Did you tell them to destroy their books, did you tell them to destroy their register, at the Hotel Lucerne?—A. I did not.

Q. Did you tell them to destroy the register at the Lincoln House?—A. I did not.

Q. Did you tell anybody to destroy the register at the Revere House?—A. I did not.

Q. You have been interested in the Revere House?—A. I am not.

Q. When the Revere House was complained of by the Watch and Ward Society—A. No, sir.

Q. Because of the manner in which it was being conducted, because of the manner in which young girls were taken in there, were you not interested, with George U. Crocker, in trying to prevent the licensing board from taking away its license?—A. That is an absolute falsehood.

Q. Isn't it a fact that you were associated with George U. Crocker in trying to prevent the prosecution by the Watch and Ward Society of the Revere House for immoral practices that they were indulging in there?—A. That is an unqualified falsehood.

Q. You know George U. Crocker, I presume?—A. Yes, sir; and I voted against him for city treasurer.

Q. All right. Now, then, did you tell the owners of the Hotel Royal to destroy their register?—A. I did not.

Q. Did you tell the owners of the Hotel St. James, now called the Coolidge House, to destroy their register?—A. I did not.

Q. All right. Did you advise the proprietors or clerks of the Quincy House to destroy their register?—A. I did not.

Q. Did you advise the clerks or the proprietors or owners of the Lincoln House to destroy their register?—A. I did not.

Q. And of the Central House?—A. I did not.

Q. This "true name" law obliges these hotels to keep a register, does it not?—A. I have never read the law, sir.

Q. Were you in the legislature of last year?—A. I was not; but produce the law and I will give you my opinion of it.

Q. Now, take the Hotel Lucerne, who did you have—who had charge of the Hotel Lucerne?—A. What do you mean, sir?

Q. Who has charge of that part of your ward in which the Hotel Lucerne is located?—A. How do you mean, has charge of it? Define what you mean.

Q. Who has charge of it as far as you are concerned?—A. Define what you mean—as far as I am concerned. I haven't nothing to do with the Hotel Lucerne. I believe it is owned——

Q. Who has charge?—A. I believe the Hotel Lucerne is owned by the Shea estate, leased to some man named Piscopo. You had him on the stand, but I have no interest in it.

Q. I am asking you who has charge of that part of ward 5 in which the Hotel Lucerne is located, so far as the politics of the ward are concerned.—A. The organization looks out for it.

Q. You have a number of men in the organization who look out for it?—A. There is no one man in the organization. They all take hold of it and——

Q. Can you give any one man besides yourself who has anything to do with it?—A. No one man. They hustle with one another, and chase around, and they get the vote out, too.

Q. Who is the man who gets the vote out at the Hotel Lucerne?—A. Anybody who happens to be around there that day getting the cards would go after them.

Q. Who is the man who furnishes the cards for the Hotel Lucerne?—A. I don't know. They run that place down there in their own way, and don't bother so much on the details.

Q. Where are these cards that are there prepared?—A. They are prepared right there in the precinct election day.

Q. Who prepares them?—A. Who ever is around there.

Q. Who was around there last election?—A. I wasn't down there so I couldn't tell.

Q. Who have you seen down there?—A. I didn't see anybody down there; I didn't see anybody there, for I wasn't there.

Q. But who was sent down to take charge of that precinct?—A. I don't know anything about it. You will have to find that out for yourself.

Q. Every precinct of ward 5 is looked after election day, isn't it?—A. Every precinct.

Q. Who is the man that does it?—A. There is no one man. They all take hold and help the thing along.

Q. Isn't that McCurdy's precinct?—A. No, sir.

Q. What precinct does he take care of?—A. Well, McCurdy doesn't take care of no precinct, but I think he goes over to precinct 9, around Faneuil Hall, and does all he can to bring out the vote.

Q. Then who takes care of the precinct in which Hotel Lucerne is?—A. Oh, I don't know. That precinct has been going way back to the old days; that is a great old precinct. I have a little history on that precinct, and I want to tell it to you, because I want to pay tribute to it. That is the old precinct that I used to fight for when I was young, gentlemen. We used to have some hard old fights down there in those days.

Q. What has that got to do—A. I want to tell you this: There were better men in those days.

Q. Will you be good enough to answer my question?—A. Pardon me, sir. I am answering your question about that precinct.

Q. I am asking you a question about the new precinct.—A. Well, I am telling you now about that old precinct, and you subside for a moment, for you have had a good deal to say, and we can get through.

Q. I want you to answer my question.—A. Where the old Falmouth House was located was in that part of ward 8 that was known as precinct 4. There were but two precincts in Boston at that time that had 600 Democratic votes. Them were the great old days, when Ben Butler—when Ben Butler run for governor. Do you ever remember Ben Butler? He was a candidate for governor, and there was a precinct over in the west end that they used to call precinct 4 of ward 3, and that was down through Chelsea Street and Bolton and through that section, and that was the old precinct of ours down there, and there used to be great rivalry to see which precinct would bring out the largest vote, and we used to contest it for years, and we used to fight in that precinct plenty, and when there was hostile ballots they used to grab a man and they would pull his clothes off, almost, trying to push the Democratic ballot or the Republican ballot into his hand. And really, gentlemen, it was wonderful to see how them votes used to come out, and they used to fight, and in those days, Mr. O'Connell, in those days they were great men at the polls. They never—

Q. Calm yourself.—A. No; they never brought women, mothers, women, mothers; they never brought them into the fight. They fought their political fights and the sometimes had a fight at the polls, but before the police come to arrest any of them they would say, "Hold on. We are done. Keep the cops out; fight like men," and that was that old precinct, and that was the same way—that was the same way they used to fight in Charlestown before the Tagues got control or before the Tagues become prominent, and that was the way to fight. That is a great old precinct, and that is where the Falmouth House was located. Now, you can proceed. [Laughter.]

Mr. O'CONNELL. I call your attention again to the disorder in this room, permitted by this notary without a word of remonstrance from him.

Mr. FEENEY. He isn't his notary.

Mr. O'CONNELL. Whose else is he?

Mr. FEENEY. He is the notary appointed under act of Congress.

Mr. O'CONNELL. He will do anything Lomasney tells him to do.

Q. Now, to come back to the Lucerne. You are not going to get away from it for a minute, but we will come rick to that. Who has got charge of the Lucerne activities?—A. I think Mr. Piscopo.

Q. Oh, is Piscopo a member of your organization?—A. He is not, sir.

Q. Is he a contributor of campaign funds?—A. He is not, sir.

Q. How much did Piscopo contribute to the Hendricks Club or ward committee last year?—A. He never contributed a nickel, so far as I know.

Q. Who else did he contribute to?—A. I don't know anything about it. You will have to ask him.

Q. Isn't it a fact that every liquor dealer in ward 5 had to contribute?—A. That is an absolute falsehood.

Q. All right. Now, then, I am going to ask you about the Hotel Lucerne again. Will you give me the name of the man that succeeded McCurdy in the handling of that precinct?—A. Why, that precinct has fell away. There is nothing down there to handle now.

Q. Who is handling those that are there now?—A. Everybody who is down there.

Q. Name me one man?—A. Well, I wasn't down there last election day, so I can't tell you who was there.

Q. Can't you tell me the name of the man, the precinct officer, who was sent there?—A. The precinct has been going back and back and back to such an extent——

Q. Can you answer my question?—A. Well, I tell you I wasn't there and I don't know who was there.

Q. Can you give me any man?

Mr. FEENEY. Give the stenographers a chance, both of them.

Mr. O'CONNELL. Are you talking to your witness, or talking to me?

Mr. FEENEY. I am going to talk to you.

Mr. O'CONNELL. Oh, don't.

Q. I want to know how many men you sent down to the Lucerne from the Hendricks Club on the night of March 31, last year.—A. I sent no men down.

Q. Didn't you contribute money to enable those men to buy a bed that night?—A. I did not.

Q. Who furnished money that was contributed on that night in order to make up the lists of voters in the various hotels in that district?—A. I can not tell you.

Q. Well, you are the treasurer of the Hendricks Club?—A. I am; yes, sir.

Q. And the Hendricks Club is interested in keeping up the voting list in ward 5.—A. Interested in the welfare of that section of the city and the good government of the State, as it should.

Q. I am asking you about keeping up the Democratic voting list.—A. Unquestionably.

Q. Unquestionably. And being unquestionably interested, they are anxious to get as many names on the list as is possible?—A. As is lawful.

Q. As is possible.—A. As is lawful.

Q. All right. And in that lawful purpose, so called, men are placed around different places in the ward, are they not?—A. Not to my knowledge.

Q. Well, do you get out of the Hendricks Club on the night of March 31?—A. Well, sometimes I do and sometimes I don't.

Q. Why did you get out on the night of March 31?—A. I don't know whether I was out or in, or where I was, sir. Pretty hard to recall.

Q. Did you get out on March 31 in order that you may be able to shift the blame onto somebody else?—A. No. I am willing to take all the blame for the old ward and the old organization. I am here ready to face you and all the defamers. I put no blame on anybody, because they ain't one of you got anything on us.

Q. Are you afraid to give me the name——A. I am not, sir.

Q. Wait a minute, until I get the question finished.—A. Pardon me.

Q. Were you afraid to give me the name of the precinct captain that has charge of that precinct of ward 5?—A. No, sir; I am not.

Q. Who is he, then?—A. There is no precinct captain.

Q. Well, who is the man that has charge of getting out the vote?—A. Well, there is lots of men down there that take hold of it, but it is practically——

Q. Will you give me the name of one man?—A. I wasn't there election day, and I didn't see anybody there, and of course I am not going to tell the name and bring his name in, when I don't know; and I didn't see anybody, and what I don't know I can't tell.

Q. Will you give me the name now of any other precinct where men have charge?—A. Put up a specific question to me.

Q. All right. Give me the name of the man who has charge of getting out the vote on behalf of the Hendricks Club in precinct 1?—A. That is the north end. I don't know anything about it.

Q. Who has charge of getting out the vote in precinct 2 on behalf of the Hendricks Club?—A. I hadn't been down there since—I don't know who is down there, who has to take them up.

Q. Tell us the man who has charge of getting out the vote in behalf of the Hendricks Club in precinct 3.—A. I don't know, sir; I couldn't tell you. That is the old north end ward.

Q. Who has charge of getting out the vote in precinct 4 in behalf of the Hendricks Club?—A. I don't know. The vote comes out.

Q. That was in your precinct in old ward 8?—A. That has all gone to pieces.

Q. And that was your old precinct?—A. Oh, it was a great old precinct, too.

Q. Who has charge of getting out the vote in precinct 5?—A. Five? Max Stone and Mr. Mancovitz.

Q. The Mr. Mancovitz you refer to is the notary here [indicating]?—A. He is the gentleman who has charge of Mr. Fitzgerald's—designated by Mr. Fitzgerald as the notary.

Q. Who was the other man you name?—A. Max Stone.

Q. Who has charge of getting out the vote in behalf of the Hendricks Club in precinct 6?—A. Sandy Fitzgerald and, I think, ex-Representative Robert Robinson.

Q. Who has charge of getting out the vote in behalf of the Hendricks Club in precinct 7?—A. That is where—oh, did I say 6? Well, I meant—pardon me—precinct 6. Jeremiah J. McCurdy and Jacob Rosenberg, up in 6.

Q. How about 7?—A. Senator Fitzgerald and ex-Representative Robinson—Robert Robinson.

Q. Who has charge of getting out the vote in precinct 8?—A. Pat McNulty, the famous Pat McNulty.

Q. Anybody with him?—A. I guess there are, but I ain't been down there, so I don't know.

Q. Who has charge of precinct 9?—A. I think Bob McCurdy or John F. Corcoran down there.

Q. That is the famous Bob McCurdy?—A. Oh, he is a pretty good fellow.

Q. Yes. And who has charge in precinct 10?—A. I don't know anything about it, sir.

Q. And precinct 11?—A. I don't know anything about it.

Q. Now, then, are you forgetting who had charge of precinct 4?—A. No, sir. I am telling you the truth.

Q. In precinct 4 is located 19 Causeway Street, isn't it?—A. No; it is not.

Q. Where is 19 Causeway?—A. Precinct 8, this side of Causeway Street.

Q. Well, what other places are in precinct 4 besides the Lucerne?—A. Well, you want me to describe them as well as I can tell them?

Q. Yes.—A. Well, we have the old Fitchburg Railroad; we have that factory, the candy—

Q. Do you vote any men from the old Fitchburg Railroad?

Mr. FEENEY. Allow him to finish.

A. (Resumed.) I thought you wanted to get the information.

Q. Do you vote any men from the old Fitchburg Railroad station?

Mr. FEENEY. Do you want him to finish his description of this section or not?

Mr. O'CONNELL. Oh, sit down!

Q. Do you vote any men from the Fitchburg Railroad?—A. The list will tell you; you have the list. Read the list.

Q. You know the old Fitchburg Railroad?—A. I thought you wanted me to tell what was in the territory.

Q. Go ahead.—A. Do you want me to do that? Don't be winking. Do you mean that wink for me, or do you mean the wink for Mr. Warren?

Q. What wink are you talking about?—A. I just see you wink.

Q. I think you are mistaken.—A. Well, my eyes may be going back on me, but that's all right. What is it? Pardon me.

Q. How is it that you can tell the other precincts and can't—and who have charge of them, but you can't disclose or won't disclose the names of those who have charge of the precinct you vote in, precinct 4?—A. Well, because the old precinct is dropping back; it is practically of no consequence now. There is a very small vote there.

Q. Now, Mr. Lomasney, will you look at this paper that has just been put up here [indicating], that has been held up for you to see? You see it, don't you?—A. Yes, sir.

Q. And the American reporter put that up there so that you could see it—see the work they are doing for you?

Notary MANCOVITZ. Excluded.

A. Well, I don't know, sir; I couldn't tell you that, sir.

Notary MANCOVITZ. Just a moment. Excluded.

Q. You are pretty intimate with the manager of the Boston American?

Notary MANCOVITZ. You needn't answer that question.

Mr. FEENEY. Oh, please, please stop.

Q. Let me ask you this, sir: Have you made any arrangement with Mr. Granville MacFarland in order that—by which he will play up in his paper all the things that you may say against Mr. Tague? Have you or have you not such an arrangement?—A. I haven't talked with Mr. MacFarland for two months—two or three months.

Q. Have you had anybody talk to him for you?—A. No; I have not.

Q. Has it been as the result of any talk between you and him that they have kept out of Hearst's Boston American practically everything about this hearing when it was going on before the election commission, before the ballot-law commission, and while the evidence for Mr. Tague was going in, but the minute that they stopped—that they started—that you started in to make a tirade against Mr. Tague, that they print in full every word that you may say in denunciation of Mr. Tague?—A. I made no tirade against Mr. Tague.

Q. Well, I am asking you the question: Have you got any agreement with him?—A. No, sir.

Q. You are sure of it?—A. Yes, sir.

Q. You are positive of it?—A. Absolutely.

Q. Do you suppose Mr. MacFarland will agree with you on the extent of that?

Mr. FEENEY. Oh!

A. You can call him up and find out; send for him now and find out, and that will settle it.

Q. Mr. MacFarland is a friend of yours?—A. I enjoy his friendship; yes.

Q. Mr. MacFarland is a big power with the Boston American?—A. You know what his quality is, just as well as me.

Q. Don't you know that he has charge of its political matters?—A. He is a man of capacity, and he is put in charge.

Q. And, although he was living in Swampscott, you tried to have him elected to the constitutional convention for that tenth congressional district, did you not?

Mr. FEENEY. Well, now, wait a minute.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. Mr. Mancovitz to the rescue; Mr. Feeney to the rescue.

Notary MANCOVITZ. It has no bearing on this issue at all.

Mr. FEENEY. If we can get them down to the trying of this Tague case, we will put in our evidence, all there is, but we have tried poor Ned Price, and now we are going to try Grenville MacFarland. I just wish I could get the goods on him.

Mr. O'CONNELL. On who? MacFarland?

Mr. FEENEY. Sure.

Mr. O'CONNELL. You are looking for the goods on MacFarland?

Mr. FEENEY. Sure. Tip me off, will you?

Mr. O'CONNELL. Mr. Lomasney can tell you.

Mr. FEENEY. No. You tell me.

Mr. O'CONNELL. I tell no stories.

Mr. FEENEY. I would hate to trust you with one.

Q. Now, Mr. Lomasney—A. Yes, sir.

Q. We will come back to the Lucerne. Do you know how it was that 58 names were put on to the Lucerne on the night of March 31 of last year, of men who were to vote from there?—A. I do not.

Q. Do you know of any other place in precinct 4 where 58 names were dumped on the night of March 31 for the purpose of voting in precinct 4?—A. I don't believe them 58 names were dumped. I believe 58 individuals were living there—responsive, live, white men.

Q. Will you say McCurdy wasn't at your club and took those men down from the club and gave a list into that Hotel Lucerne on the evening of March 31, last year?—A. I certainly will not say, because I never seen him do it, so I can't say.

Q. Did you see him leave the club with the—with various names of the—and men on that night?—A. I did not, sir.

Q. Have you been in 19 Causeway Street?—A. I never was there in my life.

Q. Do you know where it is?—A. Yes, sir. It is the old—it was—it is an historic place, building, too. That is where Murdock used to have his old liquid food place before he got rich and powerful; now it is the place where a lot of poor fellows have a bed.

Q. It is on the third floor of 19 Causeway Street?—A. I don't know whether it is the second or third floor. I never have been in there. I know it, but I never was there.

Q. Is the lower floor a store?—A. Yes.

Q. And the second floor a pool room?—A. I never was in the upstairs there, so I couldn't tell you.

Q. Do you know how it comes that you are interested and—in the voters of ward 5, that you don't know how it is that 25—that 30 voters were packed into 19 Causeway Street, in one room?—A. That is a licensed lodging house.

Q. Do you know how it is that 30 voters were packed into one room at 19 Causeway Street is my question.—A. That is a licensed lodging house, and the board of health designate how many persons can sleep there, as I told you yesterday—

Q. Do you know how—A. Pardon me; let me finish.

Q. Go ahead.—A. As I told you yesterday, a licensed lodging house requires—to-day if you run a lodging house you may get a license from the board of health, and they measure the rooms, and they determine the amount of air space, and then they apportion, I believe, by statute or by rule, that every individual shall have so much, so many cubic feet of air space, and I believe then, under that condition, they allow a certain number of people to occupy apartments, and that is the situation about 19 Causeway Street. It is a place—

Q. Do you know—A. It is a place where a lot of poor fellows who haven't a great deal of means go to get their bed. It is not, of course, like the Hotel Touraine, but there are men down in 19 Causeway Street that have relatives that if their names was mentioned it would surprise you.

Q. How do you know?—A. They are poor men.

Q. How do you know this?—A. Pardon me, and I will give you the answer. They are poor fellows, a good many of them that took a drink in their day; they got sick, broken down, and they are what we used to call pulling the devil by the tail, but they are honest, decent, respectable citizens. In most instances they were born in Boston, and they have that spirit of independence that they would sooner work around the docks, helping to do chores, rather than fake somebody at the expense of the city.

Q. How do you know that?—A. I am just explaining to you, sir. Now, Mr. O'Connell—

Q. Will you please answer my question?—A. Now, restrain yourself, restrain yourself, because I am telling you something you want to learn, as a lawyer; it will teach you there is a different element in this community. They are men, as I say, who are honest, law-abiding. It is no crime to be poor, and they are entitled to their vote, just the same as Mr. Ratchesky, who locates himself at the Hotel Touraine, and just the same as any other man; just the same as Thomas J. Grady, who has a place on Hanover Street and a home, as you spoke about Dr. Santosuosso, in Roxbury, where he has his wife and family, who was hustling all around through the North End for Mr. Tague, and who evidently voted for him. As I say, these men who are down here are people who are entitled to their home, who are entitled to the best that money can get for them, and they are just as good a vote on election day as your vote, Mr. Feeney's vote, my vote, or President Wilson's vote; and it is hard to determine, it is hard to determine, where them men have really a place to live, because they have to change, as one of them, or two of them, or a dozen of them will tell you any time, "We have to frequently get to bed wherever we can. If we haven't got the money we must go to a public lodging house or to the police station and get the card that allows us to saw wood." But they are desirable, fair-minded, unfortunate people, and we are all born, and we are not buried. You and I are hoping we will be here—I hope we will be here—but we can't tell where we are going to wind up, so I never believe in attacking the unfortunate. Tackle these fellows that you know; tackle these fellows you know; just as I mentioned Grady here, who you never mentioned.

Q. Now, are you willing to pick out of that 19 Causeway Street any man that you know?—A. I don't pick out; no, sir.

Q. Then, why should you give us this lecture about who they are or what they are?—A. Because I know the general character; I know their general condition; I have lived there in that locality since I was born.

Q. I offer you a list of names that were at 19 Causeway Street, and I ask you to pick out the name of any man there that you know [handing paper to the witness].—A. Why, there is nothing there to show who are legal voters.

Q. I am not talking about legal voters.—A. I am not interested in anything else but legal voters.

Q. Take that list, then [handing paper to witness], and the supplementary list.—A. George W. Ollis. He is an old-timer.

Q. Go on down the list now.—A. William C. Bell is an old-timer, who lived—used to live in Wall Street years and years ago; a furniture polisher.

Q. Go on.—A. James W. Horne is an old-timer. That is about all I know.

Q. In other words, you know three men out of those?—A. That's it.

Q. Out of 19—out of 30, you know 3?—A. That is doing pretty good.

Q. Do any of those three men—are they in the category of those you have just spoken about?—A. I wish you could examine them, and they would give you a bellyful to take care of.

Q. Will you help us to bring in——

Mr. FEENEY. Pardon me, Mr. Lomasney.

Q. Will you——

Mr. FEENEY. Pardon me, Mr. Lomasney. Although he needs your help, it is no reason you should give it to him. I object.

Q. Will you aid us to bring in George W. Ollis, who has been summoned to appear here, and who has not appeared?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Pardon me, Mr. Lomasney. You are not required to render aid to my friend who is in distress.

Q. Have you seen George W. Ollis in the last two years?—A. I think so; yes, sir.

Q. Where?—A. I think he is around the streets, up and down the streets a good deal.

Q. Do you know where he might be found?—A. I do not. You can't tell where those poor fellows can be found.

Q. Why?—A. Well, because they ain't got—they ain't located permanently. They go—as I told you, they may be here and they may be working out around; they may be down in Peabody or Arlington and they may be somewhere else. Can't tell where they are. They are trying to struggle to live.

Q. Do you know where the Merrill House is?—A. Yes, sir.

Q. Did you have anything to do with the colonization of sixty-odd names in the Merrill House?—A. I did not.

Q. Did you have anything to do with the destruction of the records of the Merrill House last year?—A. I did not.

Q. What do you say about the Merrill House having 60 men registered from there?—A. I don't know anything about it.

Q. What do you say about them? Are they—is the same thing to be said of them as——A. I think——

Mr. FEENEY. Pardon me, Mr. Lomasney.

A. (Resumed.) Oh, I think they are——

Mr. FEENEY. Pardon me, Mr. Lomasney.

Q. Is the same thing to be said of them as you said of 19 Causeway Street?

Mr. FEENEY. Pardon me.

Mr. O'CONNELL. When I get through the question you may interrupt, but wait until I get through; follow the common procedure.

Q. Now, Mr. Lomasney, will you be good enough to answer that question?

Mr. FEENEY. Now, stop, Mr. Lomasney. You should amend your question by calling attention to the fact that you are reading from a police listing book, and not from any registry list at all, and asking the witness——

Mr. O'CONNELL. Oh, sit down, sit down, sit down, or——

[The remainder of Mr. O'Connell's remark to Mr. Feeney was not audible to the stenographer.]

Mr. FEENEY. You are saying something you can't do, though.

Mr. O'CONNELL. Oh sit down, sit down.

Mr. FEENEY. If he will call the attention of the witness to a number of registered voters, I will make no complaint.

Q. Mr. Lomasney——A. Yes, sir.

Q. What do you say about the sixty-odd names that are registered——

Mr. FEENEY. They are not registered.

Q. From—on the 1st of April as being at the Merrill House?

Mr. FEENEY. They are not registered at the Merrill House, and you know it.

Mr. O'CONNELL. This is the register.

Mr. FEENEY. No. It is the police listing book you have got, only you don't know the difference.

Q. What do you say about that?—A. I don't know anything about that, sir.

Q. Who had charge of sending those 60 names into the Merrill House?—A. I don't think anybody that we had anything to do with had any charge of it.

Q. How does it come that on the—some of your friends happen to be there? You said you knew James E. McGonagle, have you not?—A. I said I was in doubt about it. There was several McGonagles.

Q. He happens to live there?—A. No. You asked me if that was the gentleman that——

Q. Do you know any of those men?—A. Pardon me, Mr. O'Connell. You said something about——

Q. Go ahead; go on.—A. You said something about a gentleman named McGonagle living in a house of mine at Binney Street, and I told you I didn't know the number of the house, and you said that was the man; so when I went out to lunch I found I am interested in 59, 61, and 63 Binney Street, and you said it was 93, and I said I didn't know, that there were several McGonagles and I didn't know, but I couldn't identify him. I may know him, but I couldn't recall.

Q. Do you know any of those who live at the Merrill House?—A. I don't recall them.

Q. Do you know Philip J. Dowd?—A. Philip J. Dowd? No, sir.

Q. Do you know Herbert W. Pike?—A. Yes, sir.

Q. Where is he?—A. I don't know, sir.

Q. Where does he hang out?—A. I haven't spoken to Pike for two or three years.

Q. Well, why?—A. Well, I don't know.

Q. He doesn't live at that house, does he?—A. Yes. He ran that house at one time.

Q. Well, he doesn't now?—A. Well, I don't know anything about it.

Q. Are you just keeping the list of that house?—A. I don't know when Mr. Pike gave up the house, because him and I were not very friendly for the last two or three years.

Q. Did you get Pike to carry the names down there?—A. I never tried to get him, to get Pike, to do anything—break the law? I never do that to anybody.

Q. Will you tell us who has charge of the precinct in which the Merrill House is?—A. I think that is McNulty's precinct; what they call McNulty's precinct.

Q. That is McNulty's precinct?—A. I think that is precinct 8, sir. Will you see if that is precinct 8?

Q. Yes; precinct 8. And the Hotel Ketterer is in that precinct?—A. No, sir.

Q. What precinct is that in?—A. Oh, yes; that is down—that is in the same precinct, I think, down—down around Canal Street.

Q. Yes. Now, what—what have you got to say about McNulty's activities in his precinct?—A. Oh, he is a good, lively fellow.

Q. He is very active, isn't he, and he is very active on keeping the list up?—A. He is a good worker.

Q. A good worker. And he is an enthusiastic worker in it, isn't he?—A. Oh, he is a live wire; yes, sir.

Q. And he carries his live-wire tactics so that he is boosting the voting list down there at all times?—A. I wouldn't say that, sir. He must sleep, eat, and drink, and work, so that he couldn't be doing it at all times.

Q. I use the words "all times" in the reasonable way.—A. Qualify your words.

Q. And I assume that a man has a chance to eat and drink and sleep.—A. Pardon me—and work.

Q. And work. What kind of work does he do?—A. He is foreman in the street department of the city of Boston.

Q. Do you call that work?—A. Yes, sir.

Q. What kind of work?

Mr. FEENEY. Oh, pardon me.

A. Well, I will describe it as well as I can, if you want me to.

Mr. FEENEY. Well, wait a minute, please.

Mr. O'CONNELL. Kind of hurts, doesn't it?

Mr. FEENEY. I object.

Mr. O'CONNELL. Kind of hurts.

Mr. FEENEY. I object.

Notary MANCOVITZ. Objection sustained, although the witness can answer if he wants to.

Mr. O'CONNELL. Feeney to the rescue again.

Q. What about the Central House?—A. I can't exactly place that place. If it is——

Q. It is 21 and 23 Green Street.—A. Oh, yes; sure. That is—pardon me; I didn't catch that.

Q. Tell us about that.—A. That is a place where workingmen live there pretty much. They are a pretty decent class of people; they are workingmen that live in that locality. They are all right, and good, decent American citizens.

Q. What would you say if 30 registered voters lived there?

Mr. FEENEY. Hasn't he answered that?

A. I would say they were all right. There is a man for every vote.

Q. What do you mean by a man for every vote?—A. American citizens, with a right to be registered and vote. Of course, that is McNulty's precinct.

Q. Who put the men down there? McNulty?—A. No, sir. They put themselves there.

Q. Who pays their room rent for the night of March 31?—A. They pay their own room rent. No suckers down that way.

Q. Well, there are suckers in other parts of the ward, are there?—A. Walking up and down Tremont Street and Washington Street and around the Common.

Q. That is in this ward; that is ward 5.—A. The Common? No. The Common is in ward 7.

Q. Tremont Street is in ward 5?—A. Half is.

Q. Washington Street is in ward 5?—A. Certainly; part.

Q. The Common is on Tremont Street?—A. The Common is on the right side. Park Street is the dividing line.

Q. So that is where the suckers are?—A. That's where they congregate.

Q. The Revere House; do you know what the Revere House is?—A. Yes, sir. It is an old, historic place. I remember when I was a boy, the Duke of Richmond, or somebody, stopped there. I remember hearing Gen. Sheridan speak right opposite, when I was a youngster. The old Prince of Wales, they say, that old scoundrel from England. Royalty used to come there and bunk.

Q. The Revere House, like lots of other institutions in Boston, has gone to the bad?—A. No. It is doing fine, they tell me.

Q. Who tells you that?—A. Well, I just—general opinion.

Q. Who told you that?—A. Why, general opinion.

Q. Who told you that?—A. Why, general opinion, I said.

Q. Give me some man who told you that.—A. I can't tell you. It is a matter of common knowledge.

Q. Are you interested in the Revere House?—A. I am not, sir; I am not, sir.

Q. Isn't it a matter of fact that the Revere House is under trial in the Superior Court——

Mr. FEENEY. Oh, pardon me.

Q. On the ground that it is a nuisance and because of the complaints of the Watch and Ward Society——

Notary MANCOVITZ. Excluded.

Q. Who seek to abate it as a nuisance and close it up because of the immorality practiced between young girls and young men who go there and frequent there? Don't you know that?

Mr. FEENEY. Stop, stop.

Notary MANCOVITZ. Excluded.

A. Ask Nathan Matthews about that.

Mr. FEENEY. Stop, sir.

Q. Don't you know, Mr. Lomasney, that the Massachusetts Supreme Court sent down a decision——A. I do not.

Q. Only two weeks ago——A. I do not.

Notary MANCOVITZ. Excluded.

Q. On that case?—A. I do not.

Q. You don't know that?—A. No. I don't follow supreme court decisions very often.

Q. I now at this time call your attention to the statements—I call your attention to the Herald of Friday, February 28, 1919, and all the Boston papers carried the same story.

Mr. FEENEY. Now, I object; to that introduction I object.

Q. This is an interview with United States District Attorney Thomas J. Boynton in reference to the question of the summoning of witnesses to attend, which you state you saw.—A. I don't know whether I saw it or not.

Q. It goes as follows—A. I didn't say I saw it, I don't think.

Q. Well, you said you thought you did.—A. Well, I didn't say I did. I said I might have seen it; but I didn't say I did.

Mr. FEENEY. Well, I am interested in calling them. Let him read it.

Q. About Mr. Boynton reaching a decision.—A. What is it?

Q. This is the way the article reads, as referring to this part of it: "When asked if he had reached a decision in the matter, Mr. Boynton would only say that he advised all witnesses to obey their summonses." Now, that was also carried in the Boston Post and the Boston Globe of that date, and you are familiar with that fact.—A. I don't remember reading that, sir. It may be so; if you say it is there, I wouldn't doubt it, sir.

Mr. O'CONNELL. I offer this article—

Mr. FEENEY. For what object?

Mr. O'CONNELL. Being page 5 of the Boston Herald.

Mr. FEENEY. To that I object.

Mr. O'CONNELL (to the stenographer). Will you please mark that, Miss Cole [handing to the stenographer]?

Mr. FEENEY. I object to it.

Mr. O'CONNELL. Mark it 75, or B, or anything.

Notary MANCOVITZ. That is excluded. We will take a recess for five minutes. (Short recess.)

Notary MANCOVITZ. Will you please come to order now? Now, will counsel proceed? Mr. Lomasney, Mr. O'Connell.

Q. One question: Do you know this man here with the—that held up that Boston American with that headline in which you threaten to put Mr. Tague in the pen?—A. No, sir; I never saw the gentleman.

Q. Do you know that his name is Drake?—A. No; I don't.

Q. Do you know that he is the man that led the delegation to Washington wherein Senator Lodge was assaulted?—A. No; I do not. I am sorry he attempted to assault Senator Lodge. I am very strong for him; he is for the people.

Q. Was it any part of some scheme between you and him by which he was to come into this room as a reporter and hold up those headlines that are in that paper?—A. No, sir; not as far as I am concerned he wasn't.

Q. Well, coming back to the colonization again—A. It was a failure before now.

Q. Do you know Daniel McIlheny?—A. Sir?

Q. Do you know Daniel McIlheny?—A. No, sir; I don't know Daniel McIlheny.

Q. Is he a member of the Hendricks Club?—A. No, sir. I say it that way. Not to my knowledge, to the best of my knowledge and belief.

Q. Do you know George W. Hill, who lives at Everett Street, Cambridge, with his family?—A. No, sir.

Q. He has been there for years, and he keeps the Derby House.—A. No. I know there was a man named Hill kept that Derby House for years, but I never spoke to the gentleman in my life.

Q. Do you know Thomas F. Bowes?—A. Yes.

Q. Who lives in Dorchester?—A. I think he lives at the Crawford House.

Q. Don't you know he has always lived in Dorchester?—A. I do not, sir.

Q. He is superintendent of sewers here.—A. He is some way connected with the sewer department. When I first knew him he lived on Temple Street.

Q. Don't you know he has been living in Dorchester all his life?—A. I do not, sir.

Q. Will you try and—you know he is part of the city hall administration, and you are intimate with the city hall administration?—A. I am not.

Q. At the present time?—A. I am not.

Q. What happened, then?—A. Nothing. I haven't been in city hall twice—well, five times in 10 years.

Q. Well, you got your brother Joe appointed?—A. Oh, well, that is history.

Q. Didn't you?—A. No, sir.

Q. Well, Brother Joe represented your club.

Mr. FEENEY. Pause a moment, Brother O'Connell.

Q. He got appointed, didn't he?—A. He was appointed by the—

Mr. FEENEY. Why not stick to the story?

Mr. O'CONNELL. I am examining this witness.

Mr. FEENEY. Let's try to try Tague; let's try Tague. Never mind brother Joe.

Mr. O'CONNELL. I am not trying Tague. I am trying Dr. Fitzgerald and Mr. Lomasney.

Mr. FEENEY. Well, I am trying him.

Q. You are on friendly terms with this administration?—A. I am on friendly terms with the mayor, but I never spoke to him but twice since election, and I met him accidentally.

Q. Do you know any reason why George W.—why Thomas F. Bowes shouldn't be here?—A. He can speak for himself. He is a free American citizen and a graduate of Columbia College, I believe, and he is certainly better able to give an account for himself than I am for him.

Q. Do you know any reason why the records of the hotels, as they purported to be the 1st of last April, should have been destroyed?—A. No; but they tell me there was a fire down there. That is a pretty good reason.

Q. At the Quincy House?—A. You mean the Crawford House.

Q. Well, he is supposed to be in the Quincy House.—A. Well, I thought it was the Crawford House fire. I don't know anything about the Quincy House. I don't know any of them—of McCurdy's boys at all, I don't think. I may know them, but I don't recall meeting any of them gentlemen.

Q. Do you know Albert I. Davis, who lives in Brookline?—A. I do not, sir.

Q. And is registered from the Quincy House?—A. I do not, sir.

Q. Do you know Daniel J. Sullivan, registered from the morgue?—A. No, sir.

Q. On Grove Street?—A. No, sir.

Q. And living in East Boston?—A. No.

Q. You don't know the keeper of the morgue?—A. I have no use for Magrath. Gov. Walsh appointed him, and that is one of the reasons I have no use for him. I thought he should put a good, clean Democrat in there, who had the capacity, and clear Magrath out then—and he promised to do it, promised to have a hearing, told me I could have a hearing on it, and if I could have had a hearing of the legislature I would have put him out, and I would put a man in there that—

Mr. FEENEY. And I was on the other side.

The WITNESS. I don't care where you were. I would have put you and him and all of you out if we had a hearing.

Q. Do you know Otto Haller, registered from the Heidelberg?—A. No, sir; I don't think so.

Q. Do you know Bernard J. Fitzgerald, who lives in Roslindale and who is registered at 66 Bowdoin Street?—A. No, sir; I don't.

Q. A lieutenant in the Boston fire department?—A. No, sir; I do not.

Q. Do you know Thomas F. Coffey, who is registered from 38 Wendall Street?—A. Is that the—

Q. Which is a barroom?—A. Is that the Thomas J. Coffey that—

Q. Who lives at 23 Monument Street, Charlestown?—A. Is that the Coffey that was down to city hall? I know that old-time sport, if that is the man; I know him.

Q. Thomas J. Coffey lives with his family in East Boston.—A. That is the only gentleman of that name I know, sir. I think that is the initials.

Q. Do you know Michael J. Palmer, who lives at 2 Mount Vernon Street and is registered from 23 Endicott Street?—A. I met him for the first time five or six weeks ago.

Q. Did you discuss with him this case?—A. I did not, sir.

Q. Will you help us to bring him here?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded.

Q. Who is your friend out there [indicating]?—A. Pardon me; I don't know; I can't see them all.

Q. That fellow sitting there in the second last row [indicating].—A. Pick the man out, sir, and I will tell you if I know the gentleman.

Q. That man [indicating].—A. I don't know the gentleman, sir.

Q. That fellow standing up there.—A. I don't know the gentleman at all.

Mr. FEENEY. Pardon me. Do you know him?

The WITNESS. I don't know the gentleman.

Mr. O'CONNELL (to a spectator). What is your name?

A SPECTATOR. Joseph Madden.

Mr. O'CONNELL. Where do you live?

A SPECTATOR. South Boston. [Laughter.]

Mr. O'CONNELL. Another one of the emergency ward. That's the way most of them do—live in South Boston or elsewhere, and vote down here.

The WITNESS. South Boston is a good place to know, and it was a good place to you. You oughtn't knock old South Boston. South Boston is a good old spot. I lived there 11 months once.

A VOICE. Only 11 months?

The WITNESS. About 11 months.

Q. Where did you live over there during those 11 months?—A. I wasn't in the house of correction, either.

Q. Now, Mr. Lomasney, you—will you help us to bring into this hearing these men, or any of them, whom I have called to your attention yesterday and to-day, who have been summoned to appear here and who have been failing to appear? I ask you if you will aid to make it possible that they come in here to give testimony concerning the alleged colonization and illegal registration and voting in ward 5.

Mr. FEENEY. That I object to.

Notary MANCOVITZ. That is excluded.

Mr. O'CONNELL. I will ask a ruling from you, by what right you exclude that question.

Mr. FEENEY. Upon the ground that I object; that Mr. Lomasney is not called upon at any time to bring witnesses in here to aid you, or aid anybody else. He is here as a witness himself; he is here to testify, and when he has testified he has done his duty.

Mr. O'CONNELL. I am asking for a ruling from you, sir.

Notary MANCOVITZ. I exclude the question, sir.

Mr. FEENEY. Never mind. That incident is closed.

Notary MANCOVITZ. I exclude the question and save your exception.

Mr. O'CONNELL. What reason have you got for excluding it?

Mr. FEENEY. No need of giving any reason, sir.

Notary MANCOVITZ. Because there is no obligation upon this witness to assist you in any way except by his own testimony. He is not your messenger or your errand boy.

Mr. O'CONNELL. Is that your reason?

Mr. MANCOVITZ. That is sufficient for you.

Mr. O'CONNELL. Have you any other reason to add to that?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Mr. O'Connell, I have ruled, and you can take your exception.

Mr. FEENEY. Pardon me. Let Mr. O'Connell examine the witness, but not the notary. He has gone into the crowd, and now he is going after the notary. I don't know who he will be asking questions of next.

Mr. O'CONNELL. Oh, sit down. Will you allow me to ask that question, as to whether this witness will aid in the bringing in of these witnesses who have been summoned and who have not appeared?

Mr. FEENEY. Only over my objection.

Notary MANCOVITZ. I will exclude the question.

Mr. O'CONNELL. Why do you exclude that question?

Mr. FEENEY. He has already answered you.

Notary MANCOVITZ. It isn't a relevant question.

Mr. O'CONNELL. Why do you—

Mr. FEENEY. Hasn't he told you more than once?

Mr. O'CONNELL. Won't you let me at least talk to the notary?

Mr. FEENEY. No. You are not here to examine the notary. You are here to examine the witness.

Mr. O'CONNELL. I call for a ruling from you, and the reason for your ruling.

Mr. FEENEY. He is not to give any reason. He is to make a ruling, sir, and when the matter is called to the attention of the committee, if we are wrong, we will bear the responsibility. Now, you have been telling us what you are going to do with this witness; you have had him on the witness stand for more than a day. Go ahead and finish your job.

Mr. O'CONNELL. Have you finished?

Mr. FEENEY. Go ahead; go ahead.

Mr. O'CONNELL. Will you give me a ruling?

Notary MANCOVITZ. I have ruled upon your question, Mr. O'Connell.

Mr. O'CONNELL. What is your ruling?

Notary MANCOVITZ. Your question is incompetent.

Mr. O'CONNELL. Why?

Mr. FEENEY. Oh, you don't have to submit to any cross-examination by him.

Mr. O'CONNELL. I want you—I am going to ask this question, and I am going to ask for a ruling in order that there may be no question about it.

Q. Are you willing, sir, to aid in the bringing in of any of these witnesses who have disappeared and who have not come here after being summoned in order to give testimony to do as you did before the ballot law commission, to bring to—them here, so that they may give their testimony?

Mr. FEENEY. Now, wait a minute.

Q. Are you willing?—A. No.

Mr. FEENEY. That question has already been asked. I have objected, and the notary has ruled it out. He has answered, I object, and I ask for a ruling by the notary.

Notary MANCOVITZ. Objection sustained, and I save Mr. O'Connell's exception.

Q. Now, Mr. Lomasney, I asked you yesterday about the number of Republicans that you supported on election day, and I am going to ask you: You supported William E. Hannon, who was the candidate, the Republican candidate, for street commissioner?—A. Yes, sir.

Q. He was at that time running against James H. Doyle——A. Yes, sir.

Q. Who had the Democratic nomination——A. Yes, sir.

Q. And who had——A. And they say—and they say, by the figures, that the vote of old ward 8 put him over.

Q. In other words, the vote of your ward was instrumental in electing a Republican street commissioner in the city of Boston as against a Democratic candidate, although ward 8, as you have stated before, was solidly Democratic?—A. That was the day we fought Fitzgerald for Frothingham. We fought for Frothingham and we fought for Hannan, and I don't apologize for it.

Q. And you are a 6 o'clock Democrat?—A. Yes, sir; and a good government man.

Q. You have, up to last year, always opposed the candidates that were indorsed by the Good Government Association of Boston, haven't you?—A. Well, they have put up some pretty raw material before the last few years. They are getting so now that they give a Democrat a chance.

Q. Up to last year you always opposed them, did you not?—A. Now they have broadened. I opposed the ring that controlled the Good Government Association, and I do now just as much as ever, but the indorsement of that association ought not bar a good, clean, up-to-date man, and when I have a chance I vote for that man, even if unfortunately he is associated temporarily with them to-day and their organization.

Q. Now, then, you just referred to the fact that you were against Fitzgerald on that date. I want you to go back——A. Yes.

Q. And tell us the number of times you have been with Fitzgerald and the number of times you have been against him since he entered politics.

Mr. FEENEY. Oh, wait a minute; wait a minute.

A. Oh, yes, I tell you——

Mr. FEENEY. Wait a minute.

A. (Resumed.) That will be quite a history.

Q. I want it.—A. You want it?

Q. Yes.

Mr. FEENEY. Wait a minute; pardon me. All of these things are mighty interesting, but I must object. It is of no consequence and doesn't relate to the issue involved here, and I am going to ask for a ruling, and I am going to ask that the witness obey the ruling of the notary.

Mr. O'CONNELL. It relates very much to this hearing, because John F. Fitzgerald, and more particularly Lomasney's support of him, is the question at issue, and whether or not they were engaged in illegal colonization and if it is something that has dated back.

Mr. FEENEY. If you will get up to 1918 on Lomasney and Fitzgerald, you can go to it to your sweet heart's content, but we don't want to go back into ancient history of the fights which they had or the fights which they had when they were together and the fights which they had when they were separated. It is of no consequence to this hearing here.

Notary MANCOVITZ. Your objection seems a proper one, sir.

Q. Now, Mr. Lomasney, Fitzgerald has accused you of being a grafter, hasn't he?

Mr. FEENEY. Wait a moment, please; wait a moment, please. That I object to. It is of no consequence here whether Lomasney is a grafter or not.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. It is of the utmost consequence whether other people who are candidates are grafters, but it is of no consequence, so far as this issue is concerned, what this witness has or has not done in the past; and the fact that Mr. Fitzgerald or anybody else has made a declaration for or against him in the past has nothing to do with the issue involved here.

The WITNESS. Mr. Feeney, if you will pardon me——

Mr. FEENEY. Mr. Lomasney, I think the record should be confined to legal limits which should be put upon it by the notary.

The WITNESS. I will follow the flag and I will follow you; but I would just as soon answer the question.

Mr. FEENEY. I know you would; but I don't want to wander too far, and I want to get this matter up to 1918 some way. He has been ducking it now for two days.

Q. I want to ask you, Mr. Lomasney, if during the last 20 years——

Mr. FEENEY. Oh!

Q. You have not been fighting one year with Fitzgerald and the next year against him?

Mr. FEENEY. Now, wait a minute.

Q. I want to know if that is not so.

Mr. FEENEY. Now, wait a minute. I haven't the slightest doubt that the witness would delight in telling you about these various fights and delight in telling you how he fought and the result of them, but it is of no consequence to this issue.

Notary MANCOVITZ. I agree with you, Mr. Feeney, and your objection is a perfectly proper objection. It is so common that everybody knows it.

Mr. FEENEY. I don't know whether anybody knows it or not.

Mr. O'CONNELL. You ought to know. You take your orders from the boss. I'm giving orders to-day.

Mr. FEENEY. You are?

Mr. O'CONNELL. Yes; and I am giving a few of them to you.

Q. Mr. Lomasney, you said yesterday that you chose Fitzgerald because he was a big man. Is that right?—A. That is one of the elements.

Q. Well, now, you have said of Mr. Fitzgerald that when you want Fitzgerald most he is against you——

Mr. FEENEY. Pardon me.

Q. And when——

Mr. FEENEY. Pardon me. Whatever he said prior to 1918 is of no consequence. Calling your attention to the witness's testimony yesterday, he said that Fitzgerald, with all his faults, was a great, big, broad man; that he had grown; that he had ideas and ideals. Now, I submit you have got no right to go back prior to 1918.

Q. God save the mark! A big man! When you said yesterday that you chose Mr. Fitzgerald because he was a big man—ah!—did you have in mind the things that you have said about Mr. Fitzgerald and his character?—A. Oh, I never talked much about the man's character.

Q. Well, then, let's see. Did you say this about Fitzgerald——

Mr. FEENEY. Well, now, Mr. Notary, if this is prior to 1918 it is of no consequence.

Q. Speaking to the people of East Boston, when you said, "When you want Fitzgerald most he is against you, and when he wanted the votes of ward 1 you gave them to him, and he should crawl on his hands and knees to you."

Notary MANCOVITZ. What time are you referring to now?

Q. (Resumed.) "You always gave them to him, whether by fair means or foul. Compare his record in Congress with that of his predecessors. He has divided families and divided friends. When again he sends his thugs to East Boston you should give them the heel. He has done it to you, and then laughed at you." Did you say that?

Mr. FEENEY. Now, wait a minute, wait a minute.

Notary MANCOVITZ. When was that?

Mr. FEENEY. Wait a minute. We are getting back now—way back—to the time when O'Connell was out boosting for Fitzgerald. It is of no consequence to this issue.

Mr. O'CONNELL. Don't you interrupt me, Mr. Feeney.

Mr. FEENEY. Well, I will interrupt you, Joe.

Q. "He carries the vote of all the places all the other candidates spurn." What did you mean by that? Disreputable places?

Mr. FEENEY. That I object to, Mr. Lomasney.

Q. "Over there he holds full sway, and he never takes the platform, but he defames the men whom he is succeeding."

Mr. FEENEY. Now, then, I object to the question as to whether at some time in the dim and distant past——

Mr. O'CONNELL. Let me finish.

Q. "Do you suppose that this weeping willow can put down our forces? He is a slippery eel and always tries to make a mark of the other man." Didn't you so designate John F. Fitzgerald?—A. I was in pretty good form at that time, wasn't I? [Laughter.]

Q. You did say that about him, didn't you?

Mr. FEENEY. Wait a minute, please.

Q. Didn't you say that about him?

Mr. FEENEY. Wait a minute; wait a minute.

A. To tell you the truth, I do not know. [Laughter.]

Q. Ah! Is it still true that he is as slippery as an eel?

Mr. FEENEY. That I object to.

A. You ought to know.

Q. Yes; I discovered that to my satisfaction, and you know the proof of it.

Mr. FEENEY. You mean to your sorrow, brother.

Mr. O'CONNELL. No; not sorrow.

Q. Isn't it true that he is still a slippery eel?—A. I don't think so.

Q. When did he get through his slippery qualities?—A. Oh, he has broadened.

Q. Is he still the weeping willow that he was described, as you described him then?—A. No. He is singing "Sweet Adeline" now.

Q. Was he still a slippery eel when you supported Frothingham against him for mayor?—A. I gave my reasons at that time.

Q. Was one of them that he was a slippery eel?—A. You read the record and ask me now, but I don't remember everything I said. I remember what I done. I don't talk much. I am a man for action.

Q. Well, you don't deny that you called him a slippery eel?—A. Well, I don't know, to tell the truth, sir; I haven't no recollection of it, but I wouldn't say that you would manufacture it.

Q. Well, this is a clipping taken from the Boston Post.

Mr. FEENEY. What date was that? [No reply.] He isn't going to give us the date, so never mind.

Q. And also from the other Boston papers of that day. Well, now, let me continue. Do you remember, then, telling—speaking at Sturk's Hall, in ward 1, of how Fitzgerald goes back on his friends, and citing a case where he turned a man out of the city employ to get even for some fancied grievance, and gave the excuse for doing so that the man owed \$10 dues to the Jefferson Club that he had not paid? Do you recall making those charges against him?

Notary MANCOVITZ. Almost 20 years ago.

Mr. FEENEY. Now, Mr. Lomasney, I don't think we ought to go into the Donovan-Fitzgerald fight. We have gone into almost all the other fights, but I think there ought to be a limit to this alleged—double alleged—cross-examination.

Q. You made the statement at that time in public, in which you said, "John F. Fitzgerald licked John H. Sullivan for the governor's council." That is true, isn't it?

Mr. FEENEY. Well, now, wait a moment. Good Lord! What has that got to do with this fight? Can't we get O'Connell up here to the 1918 fight?

Q. You declared at that time that Fitzgerald licked Sullivan in ward 6, didn't you?

Mr. FEENEY. I object, and I ask the witness to please refrain from answering, so that we may make some headway here.

Mr. O'CONNELL. If you will stop this nonsense of yours——

Notary MANCOVITZ. It is a perfectly proper objection. It has no bearing on the case at all, and the witness won't answer any further questions along that line.

Mr. O'CONNELL. I want to show, sir, that Mr. Lomasney's statement yesterday that Fitzgerald was a broad man was not well founded, and that he knows that he is just the opposite, and that he has told the world what he thought of

Fitzgerald; that he is a slippery eel; that he goes back on his friends; that he can't be trusted; and I want to show that this man knows that that is Fitzgerald's characteristic, and when he seizes upon the pretext now of calling him broad, I know that this man is just the same as he always was; that the leopard can't change its spots, and the slippery eel like John F. Fitzgerald of the past is still the slippery eel of to-day.

Mr. FEENEY. There's a question for you.

Mr. O'CONNELL. That makes it absolutely pertinent to this inquiry.

Mr. FEENEY. There is a question.

Mr. O'CONNELL. It is to show that Martin Lomasney knows that John F. Fitzgerald is not a broad man, and I sincerely insist, sir that I have got a right to inquire into the reasons why this man supported John F. Fitzgerald.

Mr. FEENEY. Well, Mr. O'Connell, go ahead. Let him answer.

A. Let me say this to you, Mr. O'Connell, in response—

Q. That can only be—A. Let me say this in response to your question: I am not much of a man for religion, but there is an old saying, "While the light holds out to burn, the humblest sinner may return."

Mr. FEENEY. Joe, there is still hope for you.

Q. And that change, that change of character, is denoted by the fact that the only change that you have noticed about him is that he now sings "Sweet Adeline"?—A. No. He is a broadened man. Now, let me tell you—

Q. Go to it. I'll sit down and wait.

Mr. FEENEY. Let him finish.

A. [Resumed.] Let me tell you: He had his days of youth when he was like you and those other young men who get a little power temporarily; think you are powerful, and you have no regard for the rights of those who are less powerful. You have some ideas when you get power that you must control everybody and everything, and as you go through life and see power vanish toward the end, you realize, after all, things are about in such a shape that there is a rule of compensation that works both ways. But when Mr. Fitzgerald was young and when I was young I had one thing that I always done—I never believed in taking a man's—what we used to call bread and butter, for anything he had ever done to you politically.

Q. Oh, great God!—A. That has been true, Mr. O'Connell, and there isn't a man, there isn't a man that ever was removed from office in old ward 8 because he owned us, and when Mr. Fitzgerald and this old board of strategy whose names you referred to here were at the height of their power, they undertook to drive me out of the political game, and they found that I come from stock that couldn't never be driven. My forefathers were born in a nation that don't stand to be driven, and we come from that kind of stock; and consequently when they had power they undertook to discharge men, not he alone, but those with whom he consorted, and they did discharge men and they did a lot of things that big men, broad-minded men, never should do, because you never should discharge a man who stands by his friends and fights you. I believe in gratitude, and I respect a man who fights me for the man who done him a favor, and I dislike ingratitude; I don't like to see ingratitude; I don't like to see any man ungrateful. Now, when they done those things, why, we secured laws from the State of Massachusetts that made these things impossible, and of course when Mayor Fitzgerald was elected mayor he had around him a lot of men that had no use for me, and they went to him and they said, "Now is your opportunity to do this and do that and do the other thing," but just like myself, just like you, just like any other man who has some feeling of gratitude, he said, "Well, I have got power," but he knew enough about the old stock we came from; he knew that all the Teelings, all the Corbetts, all the Kelihers that lived couldn't exterminate us, and when the man who first tried to exterminate me in politics, Owen A. Galvin, when he tried it, he went down to defeat, and I stayed in the city and saw his own son a fugitive from justice.

When he tried to invoke the law to indict me, he found out, and old Tom Gallagher, the detective, told him, "Don't fool with Lomasney. He comes from the right kind of stock," and that is my position. I fought power; I fought that ring of scoundrels who were trying to discharge men. I asked no quarter, but they sought quarter. Every time that—their hands would come up and we kicked them, and finally they were driven to cover. Now, he had power, and as mayor he exercised it with discretion. He showed a liberal spirit. He didn't, as mayor, discharge a lot of poor laboring men because they all happened to be friends of mine; and I went to the legislature, and your

brother, sir, your brother, was up there when I was putting the bill through to give men protection, and they hustled, they struggled, and I think they finally did stop it in the Massachusetts Senate; but I lived to put that law on the statute books, that no man should be removed from office in the city of Boston without a hearing and without an opportunity to protect his living, his family, from improper influences of that kind. So he done none of those things. He was liberal. He said, "Yes; we have had our fights, but there were a lot of circumstances in that fight." Your brother came into the ward trying to come down and lick us, to sweep in there by power, sweep through as men do that do these things. But when the thing was over he was decent and fair and did not unfairly attack a poor man, the poor men who were on the pay roll; and I felt in justice to a man with power, with men telling him to do this, with men telling him to do that, I would be somewhat ungrateful, when many of those men had turned on him because they saw he was bound to defeat. I said, "I will stay with him, although defeat is certain," because I wouldn't climb on the Hibbard band wagon when victory was sure. Now, then, that is my viewpoint on that situation.

He was fair on that occasion, and I was grateful, as I am to Tom Giblin, with all his faults. When I was fighting for my life he was with me, and, although we differ, I never forget a man, no matter what he does, who ever gives me a glass of water.

Q. So that as far back as about 1888, in Owen A. Galvin's day, you were the boss of that ward?—A. Oh, I was only a lamp lighter, getting \$1.75 a day; I was only a cipher.

Mr. FEENEY. Now, please wait.

Q. Well, you would describe what you did back in those days as being a boss, wouldn't you?

Mr. FEENEY. Please!

A. I was only a cipher.

Mr. FEENEY. We are trying to try a case that relates to 1918. For God's sake, O'Connell, come down to 1918.

Mr. O'CONNELL. Oh, sit down, sit down, sit down.

Q. So that you have been able to give men the heel and kick them whenever they showed their heads?—A. Politically, yes.

Q. What was that?—A. Politically, yes.

Mr. FEENEY. He said, "Politically."

The WITNESS. Yes.

Mr. FEENEY. Do you expect to finish to-night?

Mr. O'CONNELL. It doesn't look like it.

Mr. FEENEY. It is 10 minutes past 4, and unless counsel feels that he can finish to-night I should like to move to adjourn to-night, because I am evidently not going to get in touch with the office at the Cambridge court to get excused from there to-morrow.

Notary MANCOVITZ. Adjourn until to-morrow morning.

Mr. O'CONNELL. Just a second. Will you be good enough to have the courtesy——

Mr. FEENEY. What do you want? Don't get raw.

Mr. O'CONNELL. I want a little courtesy. I——

Q. I want to say this to you, Mr. Lomasney——

Notary MANCOVITZ. The hearing is adjourned.

Q. You are coming back here to-morrow?—A. Yes.

Q. You will have opportunity to go to the Hendricks Club to-night, and I am going to ask you to bring in here to-morrow morning, so that you could be examined upon it, the list of the members of the Hendricks Club and all the papers down there pertaining to the organization of the club.—A. Acting under the advice of——

Mr. FEENEY. Pardon me. We have heard him. There is nothing to say to him now.

MARTIN M. LOMASNEY.

(Adjourned to Wednesday, March 12, 1919, at 10 a. m.)

Hearing held in Room 443, Federal Building, Boston, Mass., March 12, 1919, at 10.55 a. m., before David Mancovitz, Esq. (presiding), and Abraham C. Berman, Esq., as notaries public.

Counsel: Joseph P. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant · John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the contestee.

Mr. FEENEY. Mr. Notary, I want to apologize to the commission for this delay, but I was forced to attend a court engagement over at East Cambridge, and as speedily as the court disposed of the matter I came from there here. I do not care to make any reply to Mr. O'Connell's slur and nasty suggestion. Mr. Lomasney, take the witness stand, please.

Mr. O'CONNELL. Gee, they are sore to start with.

MARTIN M. LOMASNEY, cross-examination continued.

By Mr. O'CONNELL:

Q. Are you ready, Mr. Lomasney?—A. Yes, sir.

Q. Have you brought with you the lists of the Hendricks Club, in accordance with my admonition to you last night?—A. I have not.

Mr. FEENEY. Your what?

Q. Do you intend to bring it here?

Mr. FEENEY. Pardon me, pardon me. I object.

Q. I call your attention to the fact that you received a summons yesterday morning.—A. I admit that, sir.

Q. Yes, sir. Now, then, that summons called on you to bring the lists of members of the Hendricks Club and other papers relating to the registration of voters in that ward now in your possession, did it not?—A. We will give you all the papers you want before you are through.

Q. Then give me the list of the names of the Hendricks Club?—A. Not now.

Q. Why?—A. Because, acting under the advice of counsel, I refuse.

Q. Then you do not want to give us a chance to show the participation of the Hendricks Club members in the illegal colonization of that ward?—A. Read your stool pigeon's report.

Q. Do you think that is a proper answer to give?—A. You heard my story, Mr. O'Connell.

Q. Do you think that is a dignified answer to my question?—A. Acting under the advice of Col. Feeney, who is the counsel of John F. Fitzgerald, I refuse to produce the papers and books at this time.

Q. Did Mr. Feeney say anything about stool pigeons?—A. I made the remark to you and the counsel back of you, here.

Mr. FEENEY. I will add a few to it, also, if you want me to.

Mr. O'CONNELL. Mr. Notary, I call your attention to the fact that at the very first opportunity this mob has they are manifesting it by demonstration at the remarks made by the witness. I ask that this mob be told that demonstrations are not in order at this hearing.

The WITNESS. I hope the gentlemen will be quiet, because I do not want any mob to cheer. I want a man to have a fair hearing and a square deal.

Mr. FEENEY. Notice what Mr. O'Connell said about you?

Q. Do I understand that from your attitude and answer you do not intend to bring that list to us at any time while you are on the stand?

Mr. FEENEY. Pardon me. You are not required to tell him about what you intend to do in the future.

Q. Were you at the Hendricks Club last night?—A. I was there last night, and I was there this morning, sir.

Q. So you had an opportunity to bring the papers with you?—A. Absolutely, absolutely. I am pleading for no excuse of that kind—plenty of opportunity.

Q. It is nothing but just defiance?—A. No, sir; it is acting under advice of Col. Feeney, who is counsel for John F. Fitzgerald. I follow the leader with the flag.

Q. And do you not intend to bring it?—A. I do not intend at this time, in response to your request, because he has advised against it, as counsel for John F. Fitzgerald.

Q. Now, Mr. Lomasney, you have been known as the boss of old ward 8, now ward 5, for a great number of years?

Mr. FEENEY. Pardon me.

The WITNESS. I haven't, sir.

Mr. FEENEY. Pardon me, Mr. Lomasney.

The WITNESS. I am no boss.

Mr. FEENEY. Pardon me, sir.

Q. You have been reading the papers?

Mr. FEENEY. Will you kindly wait until I get a chance to make an objection?

The WITNESS. I won't answer any question until you have a chance.

Mr. FEENEY. This gentleman started out on that line of tactics the day before yesterday, and he thinks it is a test of endurance, a strength endurance, lung endurance, I guess.

Mr. O'CONNELL. If I did I would yield to you all the time.

Mr. FEENEY. No.

Mr. O'CONNELL. Because if there was any man——

Mr. FEENEY. No chance in the world to do that.

Mr. O'CONNELL. If there is any hot air artist in this town, you are certainly the most brazen I have ever known, with the exception of John F. Fitzgerald.

Mr. FEENEY. You are the champion loud-lung man in the country.

Mr. O'CONNELL. The pair of you were well matched in the last mayoralty fight, and you were hitched up as you should have been, without any question.

Mr. FEENEY. Oh, I say——

Q. Now, will you be kind enough to answer——

Mr. FEENEY. I was hitched up with the best candidate of the lot, James A. Gallivan, and don't make any mistake about that, and you were on the fence.

Mr. O'CONNELL. Cheers from the mob. Is this your mob or Lomasney's mob?

Mr. CALLAHAN. Ask your questions.

Q. You have been reading the papers of Boston for the last 25 years?—A. I think the first I remember of any Boston papers was the old Boston Herald of 1867.

Q. You know in the Boston papers for the last 25 years you have been pictured and written about as the boss of ward 8. That is true, isn't it?

Mr. FEENEY. Now, wait a minute, please.

The WITNESS. Pardon me.

Mr. FEENEY. I object, and I ask for a ruling.

Notary MANCOVITZ. Objection sustained.

Q. Is the rest of your testimony on the same par as far as the truth is concerned, with your denial that you are the boss of ward 5?

Mr. FEENEY. Stop, please. It is a fundamental proposition of law that no witness has a right to characterize his own testimony. Therefore, I object.

Notary MANCOVITZ. Objection sustained.

Q. Do you know the penalties of perjury?

Mr. FEENEY. Again pardon me.

Q. Don't you?

Mr. FEENEY. Pardon me, sir. That question was asked and answered at least half a dozen times yesterday.

Q. All right. Now, then, if he is afraid to answer those questions, let us see. You state you gave a reason for your present support of Mr. Fitzgerald, in which you have combined an attack on Mr. Tague, questioning his honesty, and I am going to ask you now if this statement made about you by John A. Sullivan that you had never earned an honest dollar in your life is correct?—A. John A. Sullivan is a liar. John A. Sullivan was chairman of the finance commission for years. He said when he took the place he would put me in jail, and he had a fight, I guess, to keep out of it himself oftener than I have.

Mr. O'CONNELL. I am going to call your attention to the fact that the mob is again expressing its manifestation.

The WITNESS. You made that suggestion, and I made my answer.

Mr. O'CONNELL. I am talking about the mob, not about your answer.

The WITNESS. That is all right, sir. I defy John A. Sullivan just as I defy you and any liar, you and every dirty crook in town like Tague.

Q. Now, when these brainstorms are over, if you will just come down and answer the question. That is all I need.—A. That is all right, sir. Ask a proper question. Treat me just as you would want to be treated if I was there and you were here, respectfully, properly, and fairly. Fight for your client, but don't think you have got the "suck" to put any question over on me, for you are a mattress, illegal voter yourself, and if you got your dues you would have been arrested for illegal voting.

Q. Is this brainstorm over?—A. If you want to go into any more of it and take it up, treat me decently and properly, and I will go through like a gentleman. I extended my thanks yesterday for your courtesy, but don't start on a lot of immaterial matters, because I don't want to say a word against any man, I don't want to say a word against any man, but when you start——

Mr. O'CONNELL. Let us see what Mr. Fitzgerald's interests are. Go to it.

The WITNESS. Pardon me. When you start to put over anything on me and put me in the same category as John A. Sullivan and any of that class of men who associate with him, to pull everybody down, they are in just the same

position as you are hollering here against mattress voters, when you are an illegal mattress voter yourself.

Q. Mr. Lomasney, don't think you can threaten me, because I am one man in Boston you can threaten as long as the——A. You are the biggest expert in Boston.

Q. All right, we will see.—A. You are the biggest expert in Boston.

Q. All right, I am after you, anyway.—A. You don't dare to summons certain men in this case, because you know it.

Q. You give me the names, and I will see. Give me the name of any man.—A. I will give no name. Get them from your stool pigeons.

Q. Give me the names of any stool pigeons.—A. There is one right there [indicating].

Q. Who is he?—A. Look at him.

Q. Who is he?—A. Pick him out yourself, be quick, be active, be quick.

Q. Who is it? You are pointing toward this mob back here.—A. I wasn't, sir.

Q. Which of them?—A. Put on your glasses. You are getting old like myself.

Q. Name the men you want me to——A. You name them.

Q. (Continuing). To summons.—A. I am not running your fight.

Q. Give me a single one.—A. Put Peter on the stand and let me cross-examine him.

Mr. FEENEY. How about that challenge? Put Tague on the stand and let him cross-examine him.

Mr. O'CONNELL. Mr. Tague was here, and Mr. Feeney, you had a chance to cross-examine him.

Mr. FEENEY. I wasn't here.

Mr. O'CONNELL. You quit.

Mr. FEENEY. I will surrender the right to Mr. Lomasney. Why don't you put him on and let Mr. Lomasney cross-examine him?

Q. Name the stools you want me to——

Mr. FEENEY. What about that challenge?

Q. (Continuing.) Put on here.—A. First the men whom you have been sending around asking for information, if any who had the United States war insurance badges and went all through this city. Put those men on. Put on Ryan, whom Mr. Brogna found, and he is down in the North End. Put on the other men whom you got that testimony from you read from. Where are those men? If you have competent, proper investigators, your duty is to put them on the stand. Let us see who they are, their character, their antecedents, the value of their testimony. That is the way cases are investigated.

Q. Again I will ask you to name me the men whom you want summonsed.—A. I want nobody summonsed.

Q. Then forever keep your mouth silent about that statement.—A. I will never keep my mouth shut when you are talking about me, because I can put you overboard every time.

Q. I have called that, all right. Now, then, we will see about this alliance between you and Mr. Fitzgerald.

Mr. FEENEY. Pardon me, Mr. Notary. In view of what counsel has just said, if he will give me the names of the men who secured the testimony or the stuff that he has been reading from, I will undertake to try and bring them here, and I will undertake myself, if it takes the greater part of the 40 days, to cross-examine those men. Now, will you produce them? Will you give me the names, Mr. O'Connell, the names of the men who furnished you the stuff that you have been reading to Mr. Lomasney for two days?

Mr. O'CONNELL. No.

Mr. FEENEY. No. Go ahead with your hearing.

Mr. O'CONNELL. If you will bring in first——

Mr. FEENEY. Go ahead with your hearing.

Mr. O'CONNELL (continuing). The names of the two or three hundred who have been summoned here to appear and whom you and John F. Fitzgerald have been keeping from this hearing, I will give you the names of the men who gave me that, but give me yours first, in order.

Mr. FEENEY. Give me the names of them both now. Pardon me. Give me the names of the men you have been working under the war board getting this information for you, give me the names of both of them and see what will happen.

Mr. O'CONNELL. Produce the Hendricks Club list, and I will give you the names of the informers in it.

Mr. FEENEY. I have called your bluff now. You don't dare to do it.

Mr. LOMASNEY. I don't believe there ever was an informer in the Hendricks Club. That is left for you to be an informer, and you have always been an informer.

Q. Well, where do you get your information if you do not get it from the informers of the Hendricks Club?—A. There are no informers in the Hendricks Club. They live sometimes in Brookline and vote in Dorchester, and their names—one of their names begins with Joseph F. O'Connell.

Q. Now, you think you are going to get me going, Martin. Well, you are not.

Mr. FEENEY. You are gone.

Q. Everybody knows where I live.—A. I got you going now. I had you going when I made you admit you were an illegal mattress voter.

Q. Oh, no; you didn't.—A. Because when you ask me what is a mattress voter, I gave a description of your action, and if you had brains you would have said, "Well, that just fits me." Well, I could appreciate—I can appreciate what attention any committee of Congress is going to give a man who denounces poor men for doing something and admits he has done the same thing himself.

Q. There is a brain storm. It has taken four minutes for him to get over that.—A. It is hitting pretty hard. It is hitting pretty hard. Now, proceed.

Q. And I am going to ask you now if you know if Mr. Fitzgerald charges you with being a grafter?—A. I do not know anything about that.

Q. I want to read you the following. See if you recognize it—A. Go ahead. Read anything.

Mr. O'CONNELL (reading):

MAYOR CHARGES LOMASNEY WITH MUCH GRAFTING—HAS LIVED ON POLITICS FOR THE LAST 15 YEARS—SO SAYS THE REPUBLIC—ALSO ACCUSES THE CZAR OF SPENDING FITZ MONEY FOR FROTHINGHAM.

Mayor Fitzgerald in his weekly paper last evening charged that Martin M. Lomasney had lived on nothing but political graft for 15 years. It is part of the most remarkable attack ever penned by any mayor of Boston since the city was founded, and although it does not bear the stamp of an official document, it is the personal and expert testimony of one who, for the greater part of 15 years, has plotted and played politics with Lomasney as his ally and tutor.

Fitzgerald has, it seems, broken away from Lomasney for good and all, and the decision of the grand jury in the famous McNary charges is followed by a bitter attack upon the ward 8 boss.

TO DISCHARGE ALL.

This, it is said, will be followed by the discharge, as soon as possible, of all city employees prominently identified with the ward 8 leader, and last evening the mayor's friends, reading advance copies of the Republic, were boasting that the Hendricks Club would soon be an empty shell.

The WITNESS. It is still there.

Mr. O'CONNELL (continues reading:) This is the remarkable utterance of the present mayor of Boston, which is printed in this week's issue of the Republic:

GOES THE LIMIT.

Everybody in town is having a great laugh over Lomasney, the reformer, Martin, the Brave, who was in everybody's mouth a few months ago as a great fighter and a man whom defeat would never discourage, is now the butt of the town.

A few years ago, when in the board of aldermen, he called the world to witness that "he was in politics for what there was in it." He is known to have lived by no other method than graft for the past 15 years, and yet, when he is down and out because of his own idiotic political tactics, he is the first to run and yell, "Stop, thief!"

It is an old saying that "It takes a thief to catch a thief," and perhaps Martin is right in the direction that he is fighting, but we are of the opinion that the Republicans on Beacon Hill are not foolish enough to be caught by any such game as Martin is now playing.

Q. Are you familiar that Mr. Fitzgerald said those things about you?

Mr. FEENEY. Wait a minute, Mr. Lomasney. Now, Mr. Notary, we are trying to get information relative to votes that were cast in 1918—cast for Mr. Fitzgerald and cast for Mr. Tague, and as to whether or not the votes

were properly cast. It is of no consequence what Mr. Lomasney said of Mr. Fitzgerald; it is of no consequence whether, when Mr. Lomasney or Mr. Fitzgerald said things about Mr. Lomasney and Mr. Lomasney said things about Mr. Fitzgerald, that brother O'Connell here was lick-spitting with Fitzgerald, and his brother was his secretary; that is of no consequence. Therefore, I now insist that we confine ourselves to the question as to whether or not these votes were cast properly and counted honestly. That is the only question here.

He isn't telling us anything new. Everybody knew that Mr. Fitzgerald and Mr. Lomasney fought in the past. Everybody knew that Mr. Fitzgerald brought up and supported Mr. O'Connell, brought up his brother and made him private secretary, and took them up from the gutter and made men out of them. They also know that both of them deserted him, because he would not let them control the patronage out in Dorchester, but what has that got to do with this hearing here? I submit now it is your duty to see that the counsel upon both sides confine themselves to the issue as to whether or not votes were honestly cast and honestly counted in 1918.

Notary MANCOVITZ. Mr. Feeney, the statute governing the proceedings provides that the evidence——

Mr. O'CONNELL. Now, I want to say to you, sir, that——

Notary MANCOVITZ. Now, one minute, please.

Mr. O'CONNELL. I want to say to you, in answer to that that you are not to do any talking around here.

Notary MANCOVITZ. I will do some talking.

Mr. O'CONNELL. Let us see. The less you have to say, the better. I want to say to you I am going to show to Congress the charges that this man makes when he says that Mr. Tague is unfit, that Mr. Tague is a thief, and Mr. Tague is a grafter, and that Mr. Tague is this and Tague is the other thing, that Fitzgerald says that that is a common practice of Mr. Lomasney and it has been his practice for years to denounce everybody as a thief and a grafter and liar and quitter, and I am going to show that at this time when he is reading into these records these infamous charges against this man who stands in Boston as one of the best beloved of its citizens, because of his honor and his manhood, I say to you that I have got a full right to tell you and bring into this record what this man has been accustomed to do when he charges this man with the same things that he has charged Peter Tague with, Peter Tague, whose affections in that district amounted to such that over 7,000 men went to the trouble of putting a sticker on the ballot, 7,000 men that have hurled the lies back into the infamous tactics of these men, and I am going to show Congress this man is simply pursuing the rotten, mean politics of the gutter politicians, and it wasn't a believable story.

Now, I ask you, sir, to let me proceed with that purpose in mind, and I am going to proceed.

The WITNESS. Mr. Feeney, I would ask you as a personal favor to let me answer this gentleman.

Mr. FEENEY. Now, Mr. Lomasney, I know you would like to——

The WITNESS. His blathering and his bitterness don't scare me a bit. I want to say this——

Mr. FEENEY. Pardon me.

The WITNESS. Let him read the date of that paper. What date is that? Pardon me, read the date of that.

Mr. FEENEY. Pardon me. He won't give you the date of the paper.

The WITNESS. I have a little personal feeling, too. Give me the date of that paper you were reading from. What is the date, please? Give me the date of the paper you are reading from. What is it, please? Give me the date of the paper you are reading from.

Q. Is it true any time?—A. Give me the date of that paper.

Q. Is it true any time?—A. Give me the date of that paper.

Mr. FEENEY. Pardon me, sir.

The WITNESS. Give me the date of that paper.

Q. Is it true any time?—A. Give me the date of that paper. Now, don't be a quitter. Where is the paper? Give me the paper. I will pass it back to you. Give me the date of that paper. Are you a dirty quitter?—Are you a dirty quitter? Produce the paper. I will give my word I will pass it back to you. Put the paper on the table.

Q. There is another brainstorm. A. Put the paper on the table. You stand up and you read something. You say, so and so. Put that paper on the table.

I will pass my word it will go back. Hold it in your own hands. What a dirty contemptible trick, and you say you are a square man.

Q. Is it true?—A. Where is your paper? Put it on the table. Are you afraid of it? Pass it to the notary. Pass it to Mr. Berman. Let me see the date of it.

Q. Are you through?—A. You quit, and O'Connell, the man who said he never quit. Don't you see him quit now? Of course he is a quitter.

Q. I am waiting for you to finish. A. I am through now.

Q. Now, I am waiting for you to quit before I give you this paper.

Notary MANCOVITZ. One minute, gentlemen.

Q. I am going to ask you this: Is what has been charged by Mr. Fitzgerald against you true or was it true at any time?—A. It is an absolute lie.

Mr. O'CONNELL. All right. Now, then, Mr. Berman, I hand you the paper in order that he may see that every word I read is contained in that article [handing to Notary Berman] published in a Boston paper, and the date of the paper is there.

Notary BERMAN. You wanted that to pass?

Mr. O'CONNELL. He said to hand it through you. I have done so.

Mr. FEENEY. I haven't the slightest doubt—pardon me.

The WITNESS. It don't say what paper this was in.

Mr. O'CONNELL. You read it, it is the Boston Journal.

The WITNESS. Where, sir?

Mr. O'CONNELL. It is there.

The WITNESS. Where, sir?

Mr. FEENEY. If you will pardon me, please? I know the witness would like to answer counsel, but it has nothing to do with the issue here. I would like both parties to confine themselves to the issue, if they will.

Mr. O'CONNELL. That [indicating] says: "Mayor charges Lomasney with much grafting," and is in the Boston Journal of that date, March 14, 1906, and it is the type of the Boston Journal, and it is from the Boston Journal. Inside there it says it is the Boston Journal, and the Republic of the following date, March 15, has the article in full, from which this is quoted.

Mr. FEENEY. Pardon me, just a moment. Wait just a moment, please.

Mr. O'CONNELL. Mr. Fitzgerald can bring it in. His secretary, Mr. Martin, is right in the room, and Mr. Martin can go and furnish you with that copy of the Republic.

Mr. FEENEY. Mr. Notary——

Mr. O'CONNELL. Mr. Martin, will you be good enough to bring down here all the Republic of March 14, 1906?

Mr. FEENEY. Mr. Notary, I notified counsel—pardon me, Mr. Lomasney, for a minute. I notified counsel yesterday in due season that to-day I would have John F. Fitzgerald here as a witness willing to testify, and perhaps he will produce all you want. Mr. Fitzgerald is here now, and perhaps he will produce all you want, and as soon as you will complete your examination of this witness, it is my intention to put Mr. Fitzgerald upon the witness stand. Now, can't you please hurry up with this witness?

Mr. O'CONNELL. I serve notice on you now that when Mr. Fitzgerald appears I am going to ask to have him bring with him that issue of the Republic that is referred to in that article, namely, the issue of March 15, 1906, and all other issues containing Mr. Fitzgerald's expression of opinion and character of Martin M. Lomasney.

Mr. FEENEY. I think perhaps he will bring those and bring some he said about you at the same time.

Mr. O'CONNELL. Let him bring anything that he has.

Mr. FEENEY. He will be here.

Mr. O'CONNELL. And let the world bring in anything they have got.

Mr. FEENEY. He is here now.

Mr. O'CONNELL. I am not on trial. He is.

The WITNESS. Now, let me——

Mr. FEENEY. I wish you wouldn't, Mr. Lomasney.

The WITNESS. I just want to say a few words in regard to that thing, if you will do me a personal favor. I don't want to weaken your cause any, but I think that is——

Mr. FEENEY. I will waive at this time, but in the future, I am going to ask you——

The WITNESS. Mr. O'Connell, let me say to you about that—I never saw—at that time we were bitter political enemies. You say the charge was around

1906—no date on it, so I do not know, but Mr. Fitzgerald went into the office of mayor with those feelings, as you say, against me.

Mr. O'CONNELL (to associate counsel). Give me that other——

The WITNESS. Now, if you don't want to give any attention——

Mr. O'CONNELL. I am paying attention to you, sir.

The WITNESS. I will wait until you are through, because I do not want to interfere with Mr. Feeney's case. He is doing me a personal favor.

Mr. FEENEY. Wait until the Harringtons and the Goodwins and the O'Connells keep quiet, and then go ahead.

Mr. HARRINGTON. I ain't saying a word, John.

Mr. FEENEY. No; you are just jumping around like a bantam, that is all.

Mr. O'CONNELL. You have them all worried this morning, Arthur.

Mr. FEENEY. Wait until they quiet down, brother, and then hand it to them.

The WITNESS. Are you ready, Mr. O'Connell? Mr. O'Connell, I couldn't find the date of that paper, as I told you frankly. I don't doubt it is on there, but I can't read it. You say it was some time in 1906. Am I correct?—That is all I want to know. 1906.

Q. March 14, 1906.—A. Now, I tell you——

Q. And the Republic that it refers to, quoting from the Republic, is either of March 15 or 16, the day following that, 1906.—A. I just simply, as I say, ask Mr. Feeney to give me this. Now, sir, he went into the office of mayor in 1906. He made charges, we will admit, for the purposes of your statement, that is true. You read conclusions of what was going to happen to me, and what has happened to other people. I have lived in this city continually since 1906, and you read in something John A. Sullivan said.

Q. Not in that article, sir.—A. He succeeded afterwards as chairman of the finance commission. I have lived in this city since 1859. As a youngster, I went to the polls before I was of age, in 1876, and worked for Tilden and Hendricks. There is no man—you understand this, Mr. O'Connell—that no man can come forward and say he ever passed me a nickel in his life. I defy anyone. I know, sir, that makes you think, because you never done anything without you were paid for it. That is my answer, sir.

Q. That is exactly what the papers say, whenever you get up against it, you charge "thief."—A. And your fees while in the building department, while your brother was Mr. Fitzgerald's secretary, are well known, and I heard you plead at Mr. Fitzgerald's knees for mercy and an opportunity to make money, and say, "For God's sake, John, give Don and I a chance."

Q. Now, Martin, you have incorporated into the record a deliberate, malicious lie, because I never made a dollar out of City Hall.—A. You are the biggest whiner I ever saw—at Fitzgerald's feet in my office, in my office.

Q. You are committing perjury.—A. You are the biggest whiner. I have seen Tague whine, but you beat him.

Q. Now, where is that article? Now, you are pursuing that same thing that Mr. Fitzgerald says, that whenever any man commences to show you up in your true light, in order to divert attention, you say, "stop thief."—A. I am giving you a——

Q. You are pursuing exactly what Mr. Fitzgerald said of you in 1906, are you not?—A. I showed you my opinion of that. John F. Fitzgerald, the "old boy" strategy, Quincy, Lee, and all the men who I ever fought never could go out after we had a battle to say they ever passed me a dollar, and I have 20 years of public record in this city. Bring up anything I ever done. Bring up any vote I ever cast against the poor, not like you and some more of you who never were given very much opportunity, but who always improved it as you did, to stand by Cannon, and he was a Republican, although you were a Democrat.

Q. Is Mr. Fitzgerald true in this statement when he says "Lomasney is known to have lived by no other methods than by graft for the last 15 years"——

Mr. FEENEY. Pardon me.

Q. Is Mr. Fitzgerald telling the truth about you there?

Mr. FEENEY. Wait a minute, please. I object.

Notary MANCOVITZ. Excluded.

Q. Is he?—A. I follow the flag. I made a deal with Mr. Feeney. I keep my word.

Q. You are deserting the flag now.—A. I made a promise, and I kept my word.

Mr. FEENEY. He asked for one explanation, and he put it onto you. Now, come up to 1918, both of you.

Q. In other words, you and he expect to be able to use this record for villification, false charges, and then when I seek to cross-examine on the truth of the statement, you object and don't allow it to be answered. Is that the story?

Mr. FEENEY. Now, wait a minute, please. I object as to what I intend to do or what he intends to do. We are dealing with the question as to whether or not ballots were properly cast and counted, and that is the only question that is before the commission.

Mr. O'CONNELL. You leave the bars down for Mr. Lomasney to make false charges, and then you put them up immediately when he gets through with them.

Mr. FEENEY. No, no.

Notary MANCOVITZ. Mr. Stenographer, you can take five minutes' recess.

Mr. O'CONNELL. Again coming to the rescue when Mr. Lomasney gets where I was getting him to admit some facts. This is cross-examination, sir; and I am entitled to be heard on it. There the notary goes and gives a recess so you and he can confer.

I am going to call attention to the fact that this recess is called at 11.30, when the hearing was called at five minutes past 11. The recess is called for the deliberate purpose to give counsel and associates—Mr. Fitzgerald and Mr. Callahan going now in conference with him.

Mr. FEENEY. I am trying to find out if Mr. Fitzgerald is here.

Notary MANCOVITZ. Mr. Feeney, I may say this: The stenographers have asked me to take a recess every half hour so they can rest up and take the testimony.

(Short recess.)

Mr. FEENEY. Is the notary ready?

Notary MANCOVITZ. I shall ask the marshal if any men make any remarks in the audience, to expel them from the room. If you want to sit here quietly and listen, you can do so. If you want to demonstrate one way or the other, you will have to leave the room.

Mr. O'CONNELL. I am, at this time, going to insist, Mr. Notary, that in view of what has taken place, that in the interest of decency and orderly procedure, that you call upon the marshal to send you as many men as necessary to keep the peace, and I am going to ask you to do it now. It is idle to think that this mob, that have made the demonstrations are going to in any way be guided or restrained by any remarks from you urging it.

Now, I am going to ask you, in the interests of your own client, in the interests of Boston, to send for the marshal. He is right downstairs. He has plenty of deputies, and he is willing to send them here if you will ask for them.

Notary MANCOVITZ. Mr. O'Connell, I might say this: People have a right to be here and see what is going on. I am going to ask the people to listen and not be demonstrative. From what I see, they are decent, respectable people, and if you will control yourself, there will be no occasion for any marshal here.

Mr. O'CONNELL. Do you refuse to send for the marshals?

Notary MANCOVITZ. I see no occasion for a marshal at the present time. I have no authority to ask a marshal to come here.

Mr. O'CONNELL. Mr. Harrington, will you be good enough to go down to the marshal's office and request him to send somebody up here? These disorders are getting disgraceful, and they can not be continued.

The WITNESS. Note that the witness on the stand said it was Mr. O'Connell's vile outbursts and insulting remarks that caused all the disturbance.

DANIEL T. O'CONNELL, Esq. I am associate counsel, and I want to make a statement here. This turbulence and this disturbance was caused partly by myself in this respect: That the moment this recess was declared, Mr. John R. Fitzgerald came across here and called me a German spy, in the hearing of Mr. Callahan and others. I would pay no attention to that; I wouldn't ask for the privilege of making this statement, but it is a harsh thing, even though you are an attorney and in an important proceedings, to restrain yourself when a man will call you the spy of the enemy of your country.

I had the honor to wear the uniform of a captain of the United States Army. [Applause.]

That is more than that man had. It comes with ill grace from every man affiliated with the other side to blacken the character of every other man, whether he is counsel or not.

That is what has caused the outburst of this Mr. Fitzgerald, who is a lieutenant of this man on the stand, and obeying his every whim and caprice,

when he can't find any other charge, and coming and saying against a man, say he is a spy; and if it were not for the fact that it was in a court proceeding I would give him the answer that he should have.

That is what has caused this, and that is what has caused all these insulting remarks, trying to blacken people, blacken Tague, blacken my brother, and then trying to blacken me with such an outrageous charge. [Applause.]

The WITNESS. Pardon me. May I just say a word? Mr. O'Connell, you will appreciate, sir——

Q. Please answer the questions asked you.—A. Be fair now. I respect you, Mr. O'Connell, and I respect your brother. I respect your position as counsel, and I know the gentlemen you are fighting with. I understand we had no personal feelings whatever when this unfortunate controversy took place. I have too much respect for both of you to want to fight over any of these men, because I have been with them all and I know how they appreciate political services after they get it, and if I am treated decently, as your brother did me yesterday, and knowing me as he does, and knowing you all, he knows charges have been always made against me by the press, by politicians, and that nobody ever proved anything against me.

I want you to realize that my old skin is as tough as that table [indicating]; that I have a position in the community that I must maintain, and I am trying to conduct myself fairly and properly, and I appreciate your feelings, and I am very sorry anything of that kind took place, because I respect the both of you. Tague or Fitzgerald—why, Tague, God bless him, I know what he will do with you gentlemen after he has used you as he used me.

Why should we fight over it? Let us be men. You men are respectable men. You have families, and it is only in a man's family that made me pause. I don't want to throw any mud at any man, but I want you to be fair and I will do everything I can to be decent and respectable, but I, myself, sometimes my blood gets hot, as yours does. That is the whole story. There is no disposition to do a thing, but you must realize when you put in this thing, Mr. Fitzgerald was in power at that time, and Mr. Fitzgerald and Mr. John A. Sullivan, as you gentlemen know, and all that powerful coterie done everything they could to send me to jail or send me out of politics, by doing anything. You know, sir, because you were in the mayor's office, that they never had anything on me. They never produced anything on me. They never could produce anything on me, and if they could have, they no doubt would have disposed of me when I was interfering with their plans, just the same as they disposed of anybody else. I do not want to have any trouble with you two gentlemen over them, either one of them, and I trust everybody here will realize that these men who run for office to-day, as I said, ain't like the men of old. They could fight over them, strike one another, get killed or might get hurt. It is nonsense, Mr. O'Connell. Just as you know about Mr. Fitzgerald, we have differences. After we get something done, they undervalue your friendship—after they get it—and they turn on you.

Now, let us proceed, and I will try to cooperate, as I have, and, as I say, I was appreciative of your brother's courtesy to me yesterday, but I have to hit back, with the elements that are in me, and I try to be fair. I do not want to hit any man below the belt. I won't even if I am on the floor, gasping for breath. That is my position.

DANIEL T. O'CONNELL. You and I have known each other since I was in newspaper reporting—since 1897.

The WITNESS. I think you are on the level.

DANIEL T. O'CONNELL. If you know anything about me you can bring into this case——

The WITNESS. I wouldn't if I could.

DANIEL T. O'CONNELL. From my political experience, you are welcome to do it, but I ask you this: When you carry around with you men of the type of this man, tell them not to go and call men "Sons of bitches and bastards" under their voices where it isn't heard, and then wind up by calling them spies of their country's enemy.

The WITNESS. I did not hear the gentleman say that, of course. I do not ever believe in quarreling that way.

DANIEL T. O'CONNELL. These hearings can be conducted orderly, without bringing in the vulgarity, obscenity, and everything else.

The WITNESS. If you men will keep cool and not start yourselves, we can get along, because this is a test of government. This is a test for a hearing con-

ducted in a proper way. This is a question of how those men who are proceeding and who are acting for both parties cooperate. I don't want to see—I want to see a good, square, fair hearing. I am willing to answer any proper question. I will do it in my own way, and I do not want to insult anybody. Now, what can I do any more than that?

Mr. O'CONNELL. I want to call your attention, Mr. Mancovitz, that at my request Marshal Mitchell has sent to this room his deputy marshal, Mr. Backus, and I want to call to the mob's attention the fact that this is a United States marshal here, who stands here. [To Marshal Backus.] Show your badge, Mr. Backus, so they can know it. Let them know the majesty of the law. Will you please keep order?

Deputy Marshal BACKUS. I am here to keep order.

Notary MANCOVITZ. I am going to call your attention to that man, sitting with his hands to his chin. The first demonstration he makes, throw him out.

Mr. O'CONNELL. Why not kick them all out?

The WITNESS. Every man ought to keep order.

Mr. FEENEY. I suppose the marshal will do his duty.

The WITNESS. One or two men can talk, can't have the whole crowd talk. It is hard enough to keep one or two quiet.

Q. I want that article.—A. I passed it back, Mr. O'Connell. I think I did, anyway.

Q. Immediately upon declaring this recess, you went into that room where John F. Fitzgerald was, didn't you?—A. I did not, sir. I went out there and never saw Mr. Fitzgerald. I went to the toilet. I haven't seen Mr. Fitzgerald at all.

Q. Didn't you stand there with Mr. Fitzgerald right at the door with you?—A. No, sir. I went out that door [indicating], sir, and everybody here knows it. I went out before you had the altercation. I went to the toilet.

Mr. FEENEY. I excused Mr. Fitzgerald before Mr. Lomasney went out.

Mr. O'CONNELL. I wasn't talking to you.

The WITNESS. I came back to that room, and he wasn't there, sir.

Mr. O'CONNELL. You have helped this witness enough.

Q. Mr. Lomasney, I would like to ask you if you are to-day, in the vilifications you have heaped upon everybody here, following—if you are not following the same tactics that Mr. Fitzgerald accused you of in this article that I read to you?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. To that I object.

Notary MANCOVITZ. Question excluded. You need not answer it, Mr. Lomasney.

Q. All through your political career it has been your custom to vilify and abuse every man that was opposed to you, isn't it?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I object.

Notary MANCOVITZ. You needn't answer it.

Mr. O'CONNELL. I intend to show by these questions—

Notary MANCOVITZ. Ask the next question.

Mr. O'CONNELL. That this man has always pursued these dastardly tactics of attacking a man's reputation and trying to blacken it whenever he has been opposed to him. I insist, sir, that I have got a right to show the members of the congressional committee that the charges he has made against Mr. Tague are in keeping with his whole political conduct of the past, and that he is now simply doing what he has done for 25-odd years, and I maintain it is perfectly relevant, that it is absolutely material, that it is necessary in order that the congressional committee may understand wholly the value of the statements that he has made against Mr. Tague, the unsubstantiated vile statements that he has gotten into the record, and I insist, sir, that you permit me to examine him along that line.

Notary MANCOVITZ. Ask the next question.

Mr. O'CONNELL. Do I understand you rule that out?

Notary MANCOVITZ. Yes, sir,

Mr. O'CONNELL. What is your reason, sir?

Mr. FEENEY. Pardon me, sir.

Notary MANCOVITZ. Ask the next question.

Mr. FEENEY. Pardon me. You do not have to give any reason.

Mr. O'CONNELL. Listening to his master's voice.

Q. I call your attention to the following newspaper article, under great, big headlines, which I will introduce as an exhibit: "Lomasney uses whip overtime. The boss and his machine followers bringing pressure to bear on recalcitrant ward leaders. The collar is pushed on. Fear of losing their patronage controlled by organization is being worked upon in desperate attempt to swing workers into line." Did you see that article in the Boston Globe?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Pardon me. I object.

Mr. O'CONNELL. I offer this as an exhibit. Will you be good enough to mark this?

The WITNESS. Won't you let me look at it, anyway?

Notary MANCOVITZ. It isn't necessary. Don't bother.

The WITNESS. You needn't be afraid. I won't tear anything up.

Mr. O'CONNELL. I didn't accuse you of it. I have my eyes on you.

The WITNESS. Keep them on me. [Papers handed to witness.] Oh, that is the old——

Mr. FEENEY. Pardon me, Mr. Lomasney. I object to any answer.

Q. You have seen that article?—A. I have just looked at it.

Q. You are familiar with that having been in the Boston papers?—A. No; I do not recall it, but I have no doubt it is a Boston paper.

Mr. O'CONNELL. Will you please mark that as an exhibit?

Notary MANCOVITZ. The stenographer will kindly note Mr. Feeney objected to the question, and the answer is excluded.

Mr. FEENEY. And it is excluded.

(Clipping from Boston Globe headed "Lomasney uses whip," is offered in evidence and marked "Exhibit 101.")

Mr. O'CONNELL. Judge Morton wants to see us, in order to have this crowd restrained.

Mr. FEENEY. Is that so? I understand that is not so. All right. We will gladly talk with him.

(Counsel leaves room.)

Mr. O'CONNELL. As the result of Judge Morton's order the deputy marshal announces there will be nobody allowed in this room except those who can hold peace, and others are to be kept out, after this session, as the result of my complaint calling attention to the fact that the railing is being pulled down this morning, to which I called attention, and this mob demonstration.

Mr. FEENEY. You might as well get the facts. You all notice that gate over there is a little off its hinges. They want to fix it, so this afternoon there will be no further crowding against that gate and this rail here.

Q. I want to call your attention to the reverse side of Exhibit 101, to which I call your attention, "Boss is alarmed. Lomasney passes along word to workers to keep more quiet. State campaign is excuse offered." That is in the Traveler of October 26.

Notary MANCOVITZ. What year?

Mr. O'CONNELL. Don't you be interrupting me, sir.

Q. The other article on that same page is as follows: "Boss is hard hit. Lomasney clamors about declaration of strong leaders for Fitzgerald. Loses support he has counted upon." You have seen those articles?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Excluded. You needn't bother.

Mr. O'CONNELL. Please mark those exhibits. I offer them.

Mr. FEENEY. I object to the exhibit as well.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. You are not going back to the Donovan-Fitzgerald fight again?

(The article from the Boston Traveler of October 26 is offered and marked "Exhibit 102.")

Q. Have you seen this article in the Boston Traveler of October, 1905?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Excluded.

Q. Have you?

Mr. FEENEY. Pardon me. I object to that.

Q. (Continued.) Depicting you as sitting on the throne or mayor's chair, holding the key of the city treasury, hiding behind the mask of the man in office.

Mr. O'CONNELL. I offer that as an exhibit. Please mark it.

Mr. FEENEY. I object to the exhibit also.

Notary MANCOVITZ. Excluded. Note that.

(The clipping from the Boston Traveler, October 19, 1905, is offered and marked "Exhibit 103.")

Q. I ask you if you have seen this: "Lomasney's whip is cracking,"—in big type in the Boston Traveler—"Lomasney's whip is cracking. Lieutenants of boss order workers to get into line for machine at once. Must work or suffer. Men who refuse to obey order will be denied patronage. Contractors receive too small rewards and are holding back for better things"?

Mr. O'CONNELL. I offer that as an exhibit.

Mr. FEENEY. I object to the exhibit.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Then the exhibit is excluded. The paper is excluded as an exhibit.

[The article from the Boston Traveler, "Lomasney's whip is cracking," is offered and marked "Exhibit 104."]

Q. I call your attention to this article in very heavy type in the Boston Globe: "Lomasney's men call for money. Machine informs the contractors that the time to step forward and contribute has arrived. Touch the city employees."

And on the reverse side of it: "Machine twists screws. Employees in many of the city departments assessed large sums and ordered to settle. Sign the Donovan cards." "Brother of Boss Lomasney 'asks' men in his department to indorse Eddie Donovan's candidacy for mayoralty campaign." You have seen these articles?

Notary MANCOVITZ. Excluded.

Q. Are you familiar with that?

Mr. FEENEY. I object.

Mr. O'CONNELL. I offer this.

Mr. FEENEY. I object to that other.

Notary MANCOVITZ. Exclude them.

Mr. O'CONNELL. I offer them, and kindly mark them.

Notary MANCOVITZ. Kindly note on your records that those are excluded.

(The article from the Boston Globe, headed "Lomasney men call for money," and "Machine twists screws," offered and marked "Exhibit 105.")

Q. I call your attention to the Boston Morning Herald of October 20, 1910, as follows: "Lomasney's collar on leaders," in great heavy type. "Ward chairmen who do not fear whip cracked by boss called upon to save party. Democrats are aroused." Have you seen that?

Mr. FEENEY. Wait a minute, please. I object.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. I offer it.

Mr. FEENEY. I object to its introduction.

Mr. O'CONNELL. I offer that.

Notary MANCOVITZ. Note the exclusion.

[The clipping from the Boston Herald, October 20, 1910, headed "Lomasney's collar on leaders," is offered and marked "Exhibit 106."]

Mr. O'CONNELL. I offer these exhibits as showing this man as boss of ward 5

Mr. FEENEY. You needn't waste your time taking that.

Mr. O'CONNELL. I call your attention to the following article in the Boston Journal, October 30, 1914:

"ELECTION WARDENS TO FACE CHARGES—TWO WARD 8 MEN ACCUSED OF REFUSING TO ACCEPT CHALLENGES.

"Two election wardens in ward 8 will to-day appear before the election commissioners to face charges entered against them by John H. Farley, who lost the Democratic nomination in the third senatorial district in the primaries to Philip McGonagle, the Lomasney candidate.

"The first hearing will be that of Henry I. Gray, a Democrat, who is warden in precinct 4, and whose dismissal has been asked on charges that he refused to accept challenges made by Farley men and made threats that affected and intimidated voters. This is scheduled for 2 o'clock this afternoon.

"The other hearing will be at 8.30 this evening, when Hammond T. Fletcher, a Republican, who is warden in precinct 1, will answer to a complaint which asks for his dismissal on charges of refusing to accept challenges, failure to

attempt to intercept a man guilty of the larceny of a ballot, and with having a criminal record in the past.

"According to Fletcher's friends, the criminal record charge refers to an occurrence dating back 35 years, in which Fletcher figured in a business deal and left the matter in the hands of his attorney. When he returned, it is alleged, he found a record against him, and two years ago, according to the story, he was officially pardoned by the State authorities."

Q. This Henry I. Gray, that is spoken of, is the man of whom I was inquiring, whom you say is prominent in ward 5 politics to-day. That is true, isn't it?

Mr. FEENEY. Wait a minute, please. I object.

Notary MANCOVITZ. Excluded.

Q. That is true, isn't it?

Mr. FEENEY. Wait a minute, please. I object.

Q. A man who has been summoned to appear here?

Mr. FEENEY. That I object to.

Notary MANCOVITZ. Excluded.

Q. You refuse to answer that question?

Notary MANCOVITE. You needn't answer it.

Mr. FEENEY. I object.

Mr. O'CONNELL. The witness nods in affirmation.

The WITNESS. I tell you, Mr. O'Connell, to save your breath, save your time when Mr. Feeney objects. He is in charge of the Fitzgerald campaign. He is the attorney, and I follow the colonel.

Q. Just answer my questions, and you will lose less time. Hammond T. Fletcher, referred to in this article as being the warden down there and removed for election irregularities, was your candidate for the Republican nomination for Congress in that district?—A. I do not think Mr. Fletcher was ever removed for irregularities.

M. FEENEY. I object to the question.

Q. This is the same man, isn't he?

Mr. FEENEY. I ask the witness to refrain from answering this, please.

The WITNESS. Pardon me.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. I offer this article.

Mr. FEENEY. I object.

Mr. O'CONNELL. Mark that.

Notary MANCOVITZ. Excluded. Note the exclusion.

[The article from the Boston Journal, dated October 30, 1914, headed "Election wardens to face charges," is offered and marked "Exhibit 107."]

Q. I call your attention to an article in the Boston Journal, September 29, 1914, "Farley charges ward 8 repeating. Says 150 nonresidents voted there at the primaries."

You are familiar with that?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I object to its introduction.

Mr. O'CONNELL. I introduce that and offer it as showing that repeating has been going on in that ward regularly.

Notary MANCOVITZ. Excluded, Mr. O'Connell. The stenographer will note the exclusion.

(The article from the Boston Journal, dated September 20, 1914, headed "Farley charges ward 8 repeating," is offered and marked "Exhibit 108.")

Q. Mr. Lomasney, why did your organization and you print the bills—pay for the bills of Hammond T. Fletcher, in the last congressional fight?—A. Didn't pay his bills, sir.

Q. You testified yesterday you paid the printing bill.—A. I said the printing bill was paid; yes.

Q. Why should the Democratic ward committee, or Democratic organization pay for the bills of the Republican candidate?—A. There was a circular—Mr. Clair, who was—who is dead—was in charge of the printing and circularization of the city. I am very sorry the man is dead, but it is a fact. He wrote the articles, and he handled all the circulation.

Q. Mr. Clair was then a prominent member of the Hendricks Club?—A. No; he was not. He was not connected with the organization. He was one of the men outside.

Q. One of the most useful men of the organization?—A. He was very—he was an educated man. He went to college and was a very capable man to write a circular and do all that kind of work—and he did all that kind of work. He had a great, as you know—I do not know as you know—the gentleman.

Q. I know him.—A. He had a lot of ability in that line, so he was given absolute charge of circulars to issue that was proper. In doing that he went and sent a circular into ward 1 to hold Republican voters of ward 1 in line for Mr. Fletcher, who was the Republican nominee, because it was understood that Mr. Goodwin and a lot of other Republican voters over there were with Mr. Tague. He handled all that situation. He had a circular printed in ward 1 by John Marno Co.—I think it is—and in due time that bill was submitted and paid.

Q. By whom?—A. By the Democratic ward committee of ward 5.

Q. In other words, the Democratic committee of ward 5 was practicing a deceit?—A. No, no.

Q. (Continuing.) On the Republicans of ward 1, by sending out a circular and paying for that circular, to the Republicans of ward 1?—A. No, sir. John Marno—John Marno is a recognized Republican in ward 1. He runs a printing office, and he was given, by Mr. Clair, charge of that matter; and there was no deceit practiced, because, as I understood—I never saw the circular—but I understand the circular advocated the election of a straight Republican ticket from top to bottom.

Q. That was in order to prevent Republicans from voting for Tague?—A. That was in order to get the Republicans to vote for Fletcher, knowing Goodwin and a lot of other Republicans over there were engaged by Tague.

Q. You appealed in that circular?—A. I do not know, sir. I never saw it. Mr. Clair had full charge, and I haven't one now.

Q. You said you had seen the circular?—A. I don't know as I said that. You asked me to look for the circular. I looked around and couldn't find it.

Q. You said yesterday you had seen it?—A. I may have, but I know the bill was duly presented at that time and O.K'd for \$35, \$50, \$49—something like that.

Q. In other words, the Democratic ward committee of ward 5 paid for a bill urging the Republicans of ward 5 to vote the straight Republican ticket from top to bottom?—A. No, sir.

Q. What did it urge?—A. Urged Republicans in ward 1, as I understand it.

Q. Then ward 1?—A. You said ward 5.

Q. Then ward 5 Democratic committee paid for a circular and sent it out?—A. No.

Q. "Urging"—A. They paid the bill.

Q. They paid the bill?—A. Presented by John Marno, a recognized Republican of ward 1, that was authorized by Mr. Clair.

Q. And that circular?—A. I did not see it.

Q. And that circular purported to advise the Republicans to vote the Republican ticket from top to bottom?—A. You summons in Mr. Marno. I think the chairman of the Republican ward and city committee of ward 1 works in his office, and you will get the circular from them. I haven't a copy of it.

Q. They also paid for the mailing of the circular, didn't they?—A. Mr. Clair had charge of that detail. I do not know, but whatever they tell you will be no doubt right. It is in the return in the secretary of state's office.

Q. I read that return: "Commonwealth of Massachusetts, November 30, 1918." This is a certificate of the treasurer of the ward 5 Democratic committee, without going into it all—three pages—and at the bottom of the second page we find this item: "November 20, 1918, Marno Press, printing and mailing, 45.20." That is the item, isn't it?—A. I think that is the item; yes sir. We complied with the law.

Q. In other words, you had contributed \$275 as a contribution to defray that expense?—A. The general expenses of the campaign; yes, sir.

Q. On that sum?—A. If that is—if you will say that is what is down there.

Q. On November 4, 1918?—A. \$270.

Q. "Martin M. Lomasney, \$275."

Mr. O'CONNELL. Perhaps I better read that right into the record. Mark this as an exhibit, please.

"THE COMMONWEALTH OF MASSACHUSETTS,

"*Boston, November 30, 1918.*

"I, James J. Ryan, treasurer, certify that the following is a true statement of all the receipts, expenditures, disbursements, and liabilities of ward 5, Demo-

cratic ward committee and of every officer and other person acting under authority or in behalf of said ward 5 Democratic ward committee, in accordance with the requirements of chapter S35, acts of 1913, and amendments thereof and additions thereto:

Receipts.

Datereceived.	From whom received.	Amount.
Oct. 31, 1918	Philip J. Feinberg.....	\$125.00
Nov. 1, 1918	John I. Fitzgerald.....	200.00
Do.....	N. Brown.....	25.00
Do.....	Daniel P. Sweeney.....	50.00
Nov. 2, 1918	Patrick Colbert.....	50.00
Nov. 4, 1918	Martin M. Lomasney.....	275.00
		725.00

Expenditures or disbursements.

Date paid.	To whom paid.	Purpose.	Amount.
Sept. 6, 1918	Weeks & Doten.....	Letters.....	\$6.00
Sept. 16, 1918	American Sign Co.....	Sign.....	4.00
Sept. 17, 1918	Jacobs Press.....	Jewish circular.....	20.00
Sept. 18, 1918	Post Publishing Co.....	Advertising.....	1.75
Sept. 19, 1918	Jacobs Press.....	Jewish circular.....	15.00
Do.....	do.....	do.....	4.00
Sept. 21, 1918	do.....	do.....	6.00
Sept. 23, 1918	Helen J. McGrath.....	Addressing letters.....	20.31
Sept. 24, 1918	E. L. Slocomb.....	Printing.....	149.00
Oct. 11, 1918	Weeks & Doten.....	Letters.....	5.25
Oct. 26, 1918	H. Shulman.....	Hall and distributing circulars.....	15.00
Oct. 29, 1918	American Sign Co.....	Sign.....	4.00
Nov. 1, 1918	Jacobs Press.....	Jewish circular.....	17.50
Nov. 4, 1918	A. H. Merritt.....	Band.....	25.00
Do.....	H. Shapiro.....	Hall.....	5.00
Do.....	Different persons.....	Car fare and messengers.....	5.71
Nov. 6, 1918	J. Frank Facey.....	Printing.....	27.00
Do.....	E. L. Slocomb.....	do.....	201.00
Nov. 7, 1918	John F. Coffey.....	Stamped envelopes and postage.....	119.74
Do.....	do.....	Use of automobile.....	2.50
Do.....	M. Bennett.....	Ends.....	6.25
Do.....	Helen J. McGrath.....	Addressing letters.....	19.79
Nov. 20, 1918	Marno Press.....	Printing and mailing.....	45.20
			725.00

Liabilities, none.

JAMES J. RYAN, *Treasurer.*

“ NOVEMBER 30, 1918.

“ SUFFOLK, ss:

“ Personally appeared the above-named James J. Ryan and made oath that the foregoing statement, by him signed, is in all-respects correct and true to the best of his knowledge and belief.

“ Before me,

“ BENJAMIN FELDMAN,
“ *Justice of the Peace.*

“ Filed December 1, 1918.

“ CITY OF BOSTON,
“ OFFICE OF THE CITY CLERK,
“ *March 11, 1919.*

“ I hereby certify that the foregoing is a true copy of original document on file in the city clerk’s office.

“ Attest:

“ (Signed) M. J. DOYLE,
“ *Assistant City Clerk.*”

Mr. O’CONNELL. I offer it.

(The return, dated Boston, November 30, 1918, is admitted in evidence and marked “ Exhibit 108A.”)

Q. Now, when you are blaming this onto Mr. Clair, you are again casting it onto a dead man, aren't you?—A. No, sir; I never pass anything.

Q. Mr. Clair is dead.—A. I am telling you the facts. I never pass anything. I stand here.

Q. Mr. Clair is dead, and you are blaming it onto him.—A. He was a factor there. He was the man who handled those things. He wrote the circulars. I never wrote them.

Q. That circular was signed by Bernard E. Grant?—A. I won't say. I haven't it. I do not want to do any man an injustice. I do not know.

Q. You said yesterday you believed it was.—A. I do not know. As I say, I do not know. If I could have found the circular I would have brought it, but I haven't the circular. It was done by Clair, Mr. Clair.

Q. And Bernard E. Grant is the man who leased your ledge?—A. Bernard E. Grant is a gentleman I have business transactions with and leased the ledge to.

Q. Where?—A. Up in Grotto Glen Road.

Mr. FEENEY. What has that got to do with counting votes?

Mr. O'CONNELL. What are you afraid of? I offer it in the record.

The WITNESS. I do not say Mr. Grant signed that. I do not want to do anybody an injustice. I do not know who signed the circular. I want to be clear on that.

Q. How do you leave that now?—A. I leave it, I do not know, because you brought in the Grant matter. It might look as if I did not make that statement that it was not occurring. I do not know who signed it. I haven't seen it.

Q. Grant plays the Republican end of the ward for you, doesn't he?—A. He does not.

Q. As the result of your business dealings together, you can get him to do in politics anything you want done on the Republican end?—A. I can not and do not.

Q. Now, yesterday I asked you about John F. Coffey, and you said you did not know him.—A. Sir?

Q. Who is John F. Coffey?—A. I didn't catch you, sir.

Q. Yesterday I asked you about John F. Coffey.—A. I do not understand you, sir. Pardon me, if you did——

Q. You know this John F. Coffey?—A. Certainly; he has been there for years.

Q. Who is he?

Mr. FEENEY. You asked about Tom Coffey.

Mr. O'CONNELL. I know what I am asking about. There are two of them.

The WITNESS. Pardon me. I think that is so. I seen a gentleman—he was down in the elevator.

Q. There are two. There is another one.—A. I know this gentleman for years.

Q. Where does he live?—A. He lives on Cambridge Street.

Q. Do you know any reason why he shouldn't have come here when summoned?—A. John F. Coffey?

Q. Yes, sir.—A. I do not know any reason; no, sir. Of course, I do not know as any man——

Q. Will you help to bring him here?

Mr. FEENEY. Pardon me; wait a minute. To that I object.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. Now, I introduce at this time this paper article taken from the Boston Journal of March 14, 1906, concerning which I made inquiries this morning, and ask to have that marked.

Notary MANCOVITZ. Excluded.

(The article from Boston Journal, dated March 14, 1906, "Mayor charges Lomasney with much grafting," is offered and marked "Exhibit 109.")

Mr. O'CONNELL. I am offering that for the purpose of showing that Mr. Lomasney was not telling the truth in relation to his relations between me, himself, and Mr. Fitzgerald, and in contradiction of that statement. I will also offer to prove that the tactics which he has used of abusing Mr. Tague are common tactics with him, that he was accused of using as a practice many years ago, and that the charge was made by John F. Fitzgerald, who is the contestee in this case, and who knew him so well, as the article state.

Mr. FEENEY. Now, Mr. Notary, notwithstanding the insulting suggestions in that statement, which counsel has no right to make, I still object and hope the witness will not attempt to answer that question.

Notary MANCOVITZ. The objection is sustained. The question is excluded.

Q. Now, in your direct questions by Mr. Feeney, you said you had nothing to do with the delay of the election returns. The city of Boston—the city hall of Boston is in ward 5, it is not?—A. Yes, sir. This building is also in ward 5. All the metropolitan part—the whole business part.

Q. What reason is there that returns from wards out in the farther end of Dorchester and Hyde Park and West Roxbury that are 7 or 8 miles from city hall should get their returns into city hall long before the precinct in which city hall is located gets the returns in?—A. I do not know anything about that, sir.

Q. Was the delay—A. Pardon me. Let me answer.

Q. I thought you finished. Go ahead.—A. I never was a precinct officer in my life.

Q. Is it not a fact that the precinct returns of ward 5 in the last congressional contest began to show, early in the evening, that Mr. Tague was making a strong run against your candidate, Mr. Fitzgerald, and did not news of that fact come to you at the Hendricks Club?—A. Will you please repeat that question?

Q. Is it not a fact that at the primary last fall, soon after the polls closed, word commenced to get to the Hendricks Club that Mr. Tague was making a strong run against Mr. Fitzgerald, and was running pretty nearly even with him?—A. Well, the figures showed as they came in—

Q. Yes.—A. As the figures came in, that told the story.

Q. And they were told to the Hendricks Club as they came in, were they not?—A. Got them over the telephone.

Q. As the result of having brought the information to the Hendricks Club, is it not a fact that word went out from the Hendricks Club to hold back the last two precincts in which city hall is located, and that are adjacent to city hall, until all other returns had come in?—A. That is an unqualified falsehood.

Q. Can you explain, then, why it is that the returns from all the districts, including East Boston, Charlestown, the south end, and the north end, were received before the precinct in which city hall itself is located?—A. I can not, sir.

Q. The fact remains that it was the last precinct that did come in?—A. I do not know anything about that, sir.

Mr. O'CONNELL. I wish you would keep your voice down, Mr. Callahan, and not be suggesting answers to the witness. He heard what you said then, and he repeated it exactly as you gave it to him.

The WITNESS. Mr. O'Connell, I want to say I did not hear a word he said.

Q. You repeated it exactly.—A. Great minds operate together.

Mr. CALLAHAN. I will take care of myself. I think there is no evidence of it, and you ought to know it.

Q. The precinct officers in the precinct in which city hall is located are members of the Hendricks Club, are they not?—A. I couldn't tell you. If you read the names, I will tell you. I do not know what the names of the precinct officers are.

Q. What precinct, in order that we may get this record clear, for the purposes of the record?—A. That is—

Q. City hall is in what precinct?—A. Precinct 9.

Q. Precinct 9?—A. I think so.

Q. Where does precinct 9 vote?—A. Precinct 9 votes in Faneuil Hall.

Q. And Faneuil Hall is a very short distance from city hall?—A. Absolutely. You know that, and I know it.

Q. For the purpose of the record.—A. The old historic building.

Q. Who was in charge of that precinct that day?—A. What do you mean? Which day do you mean?

Q. Who had charge of that precinct?—A. Which day?

Q. Primary day.—A. I think Mr. McCurdy was down there.

Q. And Mr. McCurdy is a member of your club?—A. Mr. McCurdy is a member of the Hendricks Club.

Q. It is a small precinct, is it not?—A. Oh, no; a large precinct.

Q. How large?—A. I guess it covers—

Q. In numbers, I mean.—A. Oh, it is a very large precinct.

Q. How big?—A. I should say six or seven hundred votes.

Q. Six or seven hundred votes?—A. I do not want to be bound by that. Whatever the list will show you; I haven't the list with me. May be between 550 and 650. I may be wrong.

Q. Who was the warden of that precinct?—A. I couldn't tell you, sir.

Q. Do you know any reason, if reasons have ever been advanced to you, as to why that return was delayed?—A. I wasn't there, sir, and I do not know anything about it. I couldn't tell you, sir. I tell you, Mr. O'Connell, I think the wardens and the precinct officers count them out as fast as they can, to get out. They don't hang around there. I do not know anything about it. It isn't a very agreeable duty, and a very small salary for it.

Q. That being so, there would be no reason why they should not get their returns in, unless orders came from the Hendricks Club to hold them back?—A. That is an improper question. Every man likes to get through his work. No question the same thing prevailed everywhere. If you are talking about the election, you had supervisors and everything.

Q. I am talking about the primaries now. We will get to the election later on. Inasmuch as men like to get through early, you can't give—A. The primary—I want to tell you about the primary day. You speak about the primary day. Let me tell you about the primary day.

Q. Let me ask you a question before you start to answer.—A. I am answering another question. You can't ask me one question and then start on another. Primary day, as I remember it, and I think you, there was that influenza around. It was all over the city. There was a lot of people sick, and a lot of precinct officers sick. That is the only thing I want to observe right there. That is all, sir.

Q. That being the case, those precinct officers wanted to go home early?—A. I think they were naturally men that had not been accustomed to it, and I think that was the case, or the cause of some delays all over the city.

Q. Mister—A. Mr. O'Connell, let me tell you something right here and now. The precinct officers in ward 8 never done a crooked job in their lives. They don't need to do a crooked job in ward 8, because they get the votes. They put them in the box honestly and legally, and they count them.

Q. Wasn't that the same precinct where Messrs. Fletcher and Gray were dismissed because of irregularities?—A. They never were dismissed.

Q. Is it not in that precinct, that precinct that the charges were made of the irregularities?—A. I do not know anything about the charges.

Mr. FEENEY. Pardon me, pardon me. We were going along nicely for half an hour.

Now, please, Mr. Witness, let us stick to the issues here, and I know he will cool down after a while.

Q. You do know Henry Gray was removed as an election officer?—A. I did not, and I say it is an unqualified falsehood.

Mr. FEENEY. Pardon me.

Q. You know Mr. Fletcher resigned under charges?—A. I do not; no.

Mr. FEENEY. Will you pardon me?

The WITNESS. Yes.

Mr. FEENEY. We have been here now three days, and we haven't got anywhere since the direct examination concluded. Now, I object to this matter of Henry Gray or Mr. Fletcher when election officers, whether they were removed or whether they gained a cross; that is of no consequence whatever.

Notary MANCOVITZ. Your objection is a proper one.

Q. What did your man say?

Mr. FEENEY. I object to it.

Notary MANCOVITZ. The objection is a proper objection, I say.

Q. Answer the question.—A. I will not, when the notary tells me to not—I will not.

Q. I want to say to you that the notary has no power to tell you not to answer a question.—A. When he says the question is excluded I don't answer it. He is the judge. Obey the judge and the colonel when he makes an objection. I won't until he is through. Obey the major and the judge, the judge and the major, the major and the colonel, the judge and the colonel, instead of the judge and the major.

Q. How is it you draw the line and answer questions you wish to answer against their objections?—A. I tell you Mr. Feeney objects, and I try to follow him.

Q. You overrule him, if you want to.—A. Sometimes I get in ahead faster than he does, but I do not intend to be. My answer comes out too fast.

Mr. FEENEY. I can't stop you. I don't intend you shall if I can stop you.

Mr. O'CONNELL. Do you mean to say, Mr. Mancovitz, I am not going to be allowed to inquire into whether there was this delay in this precinct?

Mr. FEENEY. Now, please——

Notary MANCOVITZ. Ask the next question.

Mr. FEENEY. Let him ask questions. We will pass on the questions.

Mr. O'CONNELL. Now, that brainstorm is over, let us ask you something more.

Mr. FEENEY. I wish you would get a brainstorm once, if you have anything to have a brainstorm in up there.

Mr. O'CONNELL. The brainstorms are all from your witness.

Q. You were asked if you had any conversation with any election commissioner while the recount was on. Did you ever? Did you receive the messages from Commissioner Burlen after that recount started?—A. I did not, sir.

Q. You did not? Are you positive?—A. Absolutely.

Q. All right. On the day that the recount started, or the second day of the recount, the primary vote, did you receive any message from Mr. Burlen, chairman of the election commissioners?—A. I did not.

Q. You are positive of that?—A. Yes, sir.

Q. Now, you are quite positive of that?—A. Yes, sir. Oh, read it now. That is the greatest bluff I ever saw.

Mr. FEENEY. I am reading mine, too.

The WITNESS. Read it, now. Don't pull anything like that on an old timer.

Q. I will show it to you when I get ready.—A. I am waiting for you to show it. I have been waiting a couple of days for you to bring the telegrams and the letters you have promised.

Q. You showed yourself up now.—A. Go ahead and bring them out.

Q. Now, when you took charge of the hearing after the recount, you remained in charge of it from the very first day up to the last minute, did you not?

Mr. FEENEY. Now, will you pardon me?

A. I was at no recount hearings.

Q. Ballot law commission, after the recount?—A. Pardon me, I thought you said at the recount.

Q. No, I said after the recount ended, the hearing started before the ballot law commission.

Mr. FEENEY. You did not say that before.

Mr. O'CONNELL. I know what I said.

Mr. FEENEY. Ask your stenographer to read it. You will find the witness is right.

Mr. O'CONNELL. You are going off again. You can not keep still any more than your witness can.

The WITNESS. The witness can't keep still and answer you. I know you don't like that.

Q. I don't care how you do it. You are the man on trial.—A. You are the man on trial.

Q. You would like to have me, but you can't.—A. You are on; you are a mattress voter. You are an illegal mattress voter, and you are crying fraud, while you are one yourself.

Q. Now, I am coming back again. When you get on dangerous ground you always like to throw that.—A. I have to throw it, because it is such a farce to have you talking about illegal voting. He, a crook at that game—an illegal mattress voter, hollering about it.

Q. I want to say this to you, sir: I am not going to abandon my purpose of asking the question.—A. Go ahead and ask it.

Q. I am going to say this to you, sir.—A. You don't.

Mr. FEENEY. Go ahead and ask the questions. Never mind him.

The WITNESS. Don't look so severe. You are a better looking man, like myself, when you smile. Laugh and be jolly.

Mr. O'CONNELL. Don't pay any attention to this peewee lawyer.

The WITNESS. "Peewee": yes.

Mr. O'CONNELL. Peewee is good for him.

Q. I want to say this to you, sir: You may charge me with being a mattress voter.—A. Well, you said you were.

Q. All you please.—A. Well, you said you were.

Q. I will tell you right here and now.—A. Well, you said you were.

Q. Those charges don't make it.—A. Well, you said you were. You lived in Brookline——

Q. Wait until I am through.—A. You said you lived in Brookline and you voted from Bowdoin Street. That showed you were an illegal mattress voter,

and what you are talking about anybody else, sir? Come into court with clean hands.

Q. When this brainstorm—A. Come into court with clean hands.

Q. Of yours is over, I will proceed.—A. Go ahead, sir. Now, you started—

Q. Is it all over?—A. You started this yourself.

Q. Is it all over?—A. No; but I got you where I want you. I am surprised at it—an illegal mattress voter talking himself about somebody else.

Q. Is the brain storm over yet?—A. That is a hard one, to think you are caught that way.

Q. Is the brain storm over yet?—A. But you did not realize it. Go ahead, sir.

Q. Is the brain storm over yet?—A. I would like to be arguing that case against you in Congress.

Q. Is the storm over yet? I want to tell you, sir—

Mr. FEENEY. You are not here to tell us anything. Go ahead and ask questions.

Q. That my voting in this city is the voting of a man who was born here.

Mr. FEENEY. Is this of any consequence here?

Q. When I voted from my mother's home, from the home I was born in, where my family was residing with me, I was voting according to the rights of an American citizen, and all your vile charges stating that I was living elsewhere at that time mean nothing to me, and you can repeat them as often as your mind sees fit to do so. I want you to remember, sir, that I am now living in Boston; that it is true that temporarily, whilst there was a change from—A. That's the boy.

Q. Dorchester—A. It is true. You admit it is true.

Q. Wait a minute. The brain storm is starting again. Whilst there was a change of my home, and pending the changing from one permanent residence in Dorchester to a permanent residence in ward 25, I voted in ward 20—ward 18 now—and at the same place where I always voted, at my mother's home, where my wife and my four or five children at the time lived with me, and when you want to make people believe other than that you have got something to do, sir. Now, I want to say to you—A. You had a temporary residence in—

Q. I did not.—A. In Brookline—hold on, now; in Brookline.

Q. No.—A. Where do you mean to say?

Q. Wait a minute.—A. Do you mean to say—

Q. Come back here.—A. Hold on now. You made a statement now. You put yourself in a box. You put yourself in a box, now.

Mr. O'CONNELL. Will you tell the witness to subside in his brain storm?

Mr. FEENEY. Will you tell Mr. O'Connell to subside in his brain storm?

Mr. O'CONNELL. Tell Feeney to subside in his brain storm.

Mr. FEENEY. Will you tell Mr. O'Connell to subside in his brain storm?

Mr. O'CONNELL. The peewee lawyer jumps up and makes a lot of noise.

Mr. FEENEY. This gentleman who can not be designated by any proper word in any descriptive form as a lawyer.

Mr. O'CONNELL. This brain storm shows he is a peewee lawyer.

The WITNESS. We got you to admit it now, that you lived on Waldeck Street and went to Brookline, and that you were voting in Dorchester, when the directory said your home was in Brookline. The last place you voted in ward 20 before you moved to Brookline was Waldeck Street. That was your permanent home. When you moved to Brookline you came back on the voting list and went to your mother's home, a decent, respectable home, and I am not making any reflection on it, but you did not go to the same home that you went to Brookline from. You then took the Brookline residence, but you do not care to say that you did not pay rent temporarily in Brookline. You, sir, were within your rights, but you are charging other men with committing fraud, when you are just as big a fraud yourself. If they are wrong, you are wrong. I claim you both are right.

Q. Is the storm over?—A. You can proceed.

Q. Thank you. We will now get back to the question I started on.—A. That is what you want to do—stick to the question.

Q. You won't get me aside from it, sir.—A. I made you explain that. It took a long time to get a statement, but the old, the old persistent plugging made you talk. I knew I would get you. I have got you before, you know.

Q. There is another storm, raising his—A. They are hard, aren't they?

Q. Well, you ought to know.—A. I have been through a lot of them.

Q. You have them?—A. I have. They are big bluffs until you get them up face to face. Where are those letters, now, that gun or something else you have that was going to explode. How is Peter during this interval? And just think, that is the fellow we are fighting over.

Q. Why did you take charge of the hearing on the contest over the primary?—A. I did not take charge.

Q. Didn't you come to the first hearing?—A. Sure.

Q. At the State house?—A. Sure.

Q. Didn't you attend every one of them?—A. I don't think—I may have missed one or two; but I do not think so.

Q. Didn't you sit at the counsel's table?—A. I sat behind the counsel.

Q. You sat behind the counsel?—A. Pretty near it. I do not know whether I was around it or behind it. I was close to it.

Q. It was as close to the ballot-law commission as you could get?—A. No, sir; it was not.

Q. How close was it?—A. There was a table between us, and I think a chair or two. Let me tell you something, Mr. O'Connell. You were a good deal closer to the ballot law commission than I was.

Q. Your statement of it doesn't make it so.—A. There is no doubt about it. There is no doubt about it. There is no doubt in my mind, that if that ballot law commission hadn't been with you, they never would have opened the hearing, because no commission has the right to suspend the statute, and when they suspended that statute and gave you that hearing, they were with you, but you could not put the evidence there to put your man across if you did not have it. It was an illegal opening, and I wanted to prohibit you, but Mr. Fitzgerald wouldn't let me.

Q. Have you finished?—A. Absolutely.

Q. That storm is over.—A. Well, that is another one.

Q. Then, inasmuch as Mr. Fitzgerald—A. Are you getting tired, Mr. O'Connell? If you are, I will sit down.

Q. No, sir; I am—A. Stand up on your feet and be game. Be game. Let me sit down, if you are going to sit down, that is all.

Notary MANCOVITZ. You can sit down, if you want to.

Q. You are getting nervous all at once.—A. You don't object to it?

Mr. FEENEY. Go ahead and sit down, if you want to.

Q. Now, why did you—

Mr. FEENEY. Pardon me.

Q. Wait until I get through asking my questions. Why did you come in and take charge of that hearing, after Mr. Fitzgerald had hired eminent attorneys to represent him?

Mr. FEENEY. Wait a minute, please. I suggest before you answer that question that this stand [indicating witness stand] be moved to one side, and you sit on the floor.

The WITNESS. That is all right. I do not want the chair. Wait until 1 o'clock. I can stand it.

Q. Answer my question.—A. Pardon me, please repeat it.

Q. Why did you insist in taking charge of those hearings, and after Mr. Fitzgerald had hired Mr. Homer Albers, an eminent authority on election law, to represent him at those hearings?—A. I never took charge of the hearings, sir.

Q. Why did you insist on sitting here and around the counsel table all through those hearings?—A. Why I wanted to exercise my rights as an American citizen, keeping my eye on you.

Q. Yes. You did not trust the lawyers who had the case?—A. Absolutely. I trusted the gentlemen absolutely.

Q. You are doing the same thing here?—A. I am not, here. I ain't been hired.

Q. You have been following the reports?—A. Yes; of course. Who could help following them.

Q. And you know that you could have done the same thing there?—A. Sir?

Q. You could have done the same thing there?—A. But I wanted to enjoy your genial company.

Q. Do you not know—will you not admit that the reason you went there was to intimidate that commission?—A. Absolutely no. I tell you no.

Q. Is it not a fact that you were in consultation with Henry Bowdoin during those hearings?—A. That is absolutely a falsehood.

Q. Did not Henry Bowdoin come to that hearing room and send word in to you?—A. He did not.

Q. Didn't you go out a couple of times to see him?—A. I did not. It is absolute falsehood.

Q. Henry Bowdoin at that time was the friend and associate of one of the commissioners, wasn't he?—A. I do not know. You are better acquainted with Mr. Bowdoin than I am.

Q. Didn't you know Mr. Bowdoin and Commissioner Vinson were close political friends?—A. I do not know anything about it.

Q. You know that Henry Bowdoin is a lobbyist around the Statehouse, don't you?—A. I don't know anything about it.

Q. Why were you in conference with Mr. Vinson and Mr. Bowdoin during that recount?—A. I never spoke to Mr. Vinson from the time the commission started until it finished, and I haven't seen him since. Mr. Vinson and myself aren't very friendly, you know. I have some rows, too.

Q. That is very evident. You had many members of the Hendricks Club up at the hearing room, didn't you?—A. There were several, sir.

Q. Was there any occasion for them having to attend at the hearing of the ballot-law commission?—A. They were within their rights.

Q. Was there any reason why men should come from their work?—A. Why—

Q. And hang around the commission hearing that took a couple of weeks to try?—A. Why shouldn't they if they desired to do it? Why shouldn't they come? What do you want, a star-chamber performance? They went to see you talk and hear you perform.

Q. Were they there for the purpose of intimidation?—A. I do not think so.

Q. What was their purpose, then?—A. I think they were there just the same as your friends were there, out of curiosity—just the same as these gentlemen here. Why are they here?

Q. Why, after the assault was made on the witness, didn't you drive them away from there?—A. I didn't see no assault made on the witness.

Q. You knew one of the witnesses was assaulted?—A. Mr. Goodwin started the whole trouble.

Q. You knew one of the witnesses were assaulted?—A. Something happened outside, but I did not see it.

Q. You saw him come into the room bleeding?—A. I saw you lead him like a little puppy dog—"Look at him, look at him," pulling him in; the big calf.

Q. You saw him covered with blood?—A. I didn't see no blood at all.

Q. Was there anything the matter with your eyesight then?—A. Of course, I unfortunately have bad eyesight, but I didn't see any blood, and you were showing him to the commission and they said, "Mr. O'Connell, that was nothing, nothing."

Q. You are sure they did that?—A. Yes. They said, "We would do the best we can." Mr. Goodwin right there; Mr. Goodwin, you started the whole trouble.

MR. GOODWIN. You are a liar.

THE WITNESS. Now, you lost your head.

MR. GOODWIN. You are a liar. I was in talking with you.

THE WITNESS. Hold on now.

MR. GOODWIN. He shouldn't make any reference to me.

THE WITNESS. Now, now.

MR. GOODWIN. You and I were talking when John I. Fitzgerald started the trouble outside.

THE WITNESS. This is a cool man.

MR. GOODWIN. You are not going to get away with anything, abusing everybody. You can't abuse me, as you have abused others all your life.

THE WITNESS. I am telling you, if I may tell you, how that started. You started to take hold of a lady from the north end, and you made a mistake, and you started—

MR. GOODWIN. You and I went back, and John I. started a fight.

THE WITNESS. And you started and claimed they were being spirited out of the room. Do you recall that incident? Don't you?

MR. GOODWIN. No, no.

THE WITNESS. Don't you remember?

MR. GOODWIN. That wasn't when the fight started.

THE WITNESS. That was the time when I saw the fellow come in.

MR. GOODWIN. You and I were talking when John I. started the fight, outside.

The WITNESS. You started to grab hold of a woman, and that started a general row. You made a mistake.

Mr. GOODWIN. No.

The WITNESS. And started a general row.

Mr. FEENEY. I do not think it comes with quite good grace from the other side to complain of names being called, when you say they are liars.

Mr. GOODWIN. It is about time to stop him from abusing everybody.

The WITNESS. I am not abusing you at all.

Mr. GOODWIN. You didn't need to mention me at all.

The WITNESS. It is a fact.

Mr. GOODWIN. It is not a fact.

The WITNESS. You saw a lady, and a man going out with the lady, with Mr. Sigliano, and you started to grab him, and that started the row. Then they went into the gallery, and they had the trouble outside.

Mr. GOODWIN. You answer the questions and don't bring me into it.

The WITNESS. I told you the fact. I said he brought out the fact that you started the row when you grabbed that woman. Mr. Sigliano and you came near having a mix-up. That started the row outside. You carried the cartridge. The powder went out.

Q. There was a good deal of commotion there?—A. There was some commotion caused by Mr. Goodwin first.

Q. After it was called to the commission's attention they said, "We have nothing to do with that."—A. The commission said that what took place in the entry, "Since this is right near the door, you call on the sergeant at arms," and they had no trouble, but Mr. Goodwin didn't—he got excited just the same as he did here when he saw Mr. Sigliano go out with the lady. He thought they were spiriting her out. She was an Italian woman. So he started to grab them and they started to resent that.

Q. Now, you are getting over your excitement?—A. Mr. O'Connell, I am never excited.

Q. What is that you said?—A. Mr. O'Connell, I am never excited. We will pass it.

Q. What did you say? I didn't catch it.—A. Take it from the stenographer's record.

Q. What did you say?

(The answer is read.)

Q. Now, you say in your direct testimony that Mr. Tague has sent out a circular in reference to Congressman Keliher being an illegal voter?—A. I had the circular; yes, sir.

Q. Is it not true that you had Mr. Tague do that in your fight against Mr. Keliher?—A. You read the circular and see if it don't come from his own headquarters.

Q. I am asking you again; you know what I mean. Wasn't that circular furnished by you?—A. That is an absolute falsehood. If you will take the circular—

Q. Can't you say yes or no?—A. Let me see—

Q. Without calling everything a falsehood. Can't you answer a question without intimating everything is a falsehood?—A. When you make a statement that a reasonable man might have some doubt about I try to be courteous, but you try to make a statement that is a deliberate lie. I say not to you, sir, but I say because somebody told you that. That is an unqualified falsehood.

Q. Now, it is a custom of yours to call everything that you disagree with a falsehood, is it not?—A. Oh, no, sir.

Q. Why do you use it so often in answer to questions if you don't want me to say—A. As Mr. Goodwin says, "You are a liar," that would be ungentlemanly.

Mr. GOODWIN. You have said it before many times to-day.

Q. How many times have you sat here to-day calling it a falsehood?—A. That don't sound as bad as saying, "You are a liar."

Q. In other words, it don't make any difference what you say. It is your custom, is it not, that whenever anything is asked of you that you do not agree with, you call it an absolute falsehood?—A. No; it is not.

Q. Why do you use it so often?

Mr. FEENEY. I object. I object. You have a right to use your own language in answering a question.

Q. Didn't that information contained in this circular, handed to me by Mr. Callahan—wasn't that circular given by you, the matter in it, to Mr. Tague to

have printed after you decided to support Mr. Tague against Congressman Keliher, against whom you said the principal fight was being made, and for whose defeat you were more interested than in Mr. Tague's election?—A. I did not give him that information at all.

Q. Wasn't it behind the attack that you had been making on Keliher for years?—A. Oh, we had our fights. I supported Keliher. I was with him, and I was against him.

Q. Every time you were against him, you made that accusation against him, that he wasn't—A. I do not know that I did.

Q. Will you say you didn't?—A. I won't say I did. I made a good many accusations, but I didn't give that information to Mr. Tague. Will you let me look at the paper?

Q. Sure.—A. I will prove it to you. I think. "September 12." Now, you see that is long before the primaries of that date. You will find that is a couple of weeks, anyway, and that is Peter F. Tague congressional campaign headquarters, 15 Beacon Street, Boston, Mass., and signed by Peter F. Tague. It goes in prepared by Tague. That was prepared up in the Democratic headquarters of the State committee, by Mr. O'Leary, who allowed him to use the headquarters of the Democratic State committee, long before he knew that I was going to support him. There is no question about it. It is his own congressional campaign. Our circular is a different circular. It was never sent out until the Monday before election.

Q. Don't try to confuse.—A. And, of course, there is—you made a statement. sir. There is his own signature. That showed—that shows that is a personal campaign signature. He said a lot of other things there, but I don't want—that fight is all over. See all the other charges, he speaks about other men. That is in there, but I simply took that out as showing that even in that case he was making that same charge against a man who had been in Congress for four years, or six or eight years, whatever it was.

Q. Do you know the date of that primary that year?—A. I don't think it was the 12th. I should think it was the 20th, something like that. If you get the Jewish holiday that year.

Q. Which one of them?—A. The big holiday.

Q. Don't ask any of these Jews about that. They do not know. That has been demonstrated at other hearings. Do you mean Roshanona?—A. I wouldn't say. I don't understand that language.

Q. You saw Mr. Mancovitz at the last hearing, and he couldn't tell us anything about the Jewish holidays.—A. No; I didn't.

Mr. FEENEY. Pardon me, I object.

Q. Magistrate Berman can tell you. He knows.

Notary BERMAN. Mr. Mancovitz and I have agreed on the name of the holiday. We both know it.

The WITNESS. This was 10 days before: "May I therefore ask you to go to the polls on September 22 and cast your vote for Peter F. Tague for Congress." This is dated September 12. 10 days before the time. Tague had no assurance from me at that time that I was to support him. That shows it is absolutely his circular. No question about that.

Q. Let's see.—A. He testified—he has testified here himself. See if I am fair now—that I did not support him until the last minute. Now, there are 10 days between September 12 and September 22.

Q. Eight days.

Mr. FEENEY. Ten days is right.

The WITNESS. September 12 to September 22. He testified on this stand here that he did not know I was going to support him until the last minute. That shows—this was 10 days.

Mr. FEENEY. There is no dispute about that testimony, Mr. Harrington.

The WITNESS. It is in the books there. I read it.

Q. I know that in all your ravings and brainstormings that you always keep saying, "I supported him." "It wasn't up to the time I supported him that I did it, that I did it." You did that because you are the boss?—A. No, no, no, no. There is no question about myself personally. When you ask a question about myself personally, I can answer it. I can not answer for anybody else but myself. But that was a trick. You asked me the question, "Didn't you furnish?" You said, "Didn't you furnish Mr. Tague that matter? Wasn't that circular prepared by you?" I said, "No," and I have proven it, because it was 10 days before the date of the primary, and he did not know we were going to support him then.

Q. You know the date at the head of the circular means nothing?—A. It means everything, sir.

Q. It means everything? What does it mean?—A. It means, of course, it comes from that headquarters that day.

Q. Does it?—A. Of course it does.

Q. Couldn't mean anything else?—A. You do not mean to say he was dating something September 12 coming out September 22, do you?

Q. Having dealt with political printers, I think so; yes.—A. I do not know. I think Mr. Tague—Mr. O'Connell, if you want to leave that matter that he wants to run away from that and blame that on to me, why, let him run. It will only show what a quitter he is. I do not think there is any need of him admitting that.

Q. You think Mr. Tague was a quitter because he wouldn't get up and ask President Wilson, during one of President Wilson's addresses to Congress, and ask him to state how England was going to treat Ireland?

Mr. FEENEY. He hasn't said any such thing.

The WITNESS. I did not say that.

Q. What did you say about him failing to do that?—A. I would ask you to read that from the records. I wouldn't split hairs. Get the records and read them.

Q. What did you say about him failing to do that?—A. You have got the records. Read them.

Q. What did you say about him failing to do that?—A. Don't you think you better read the records?

Q. I am asking you.—A. You want me to describe what took place between Tagle and myself further?

Q. I am asking you what you said in reference to Teague failing to do—failing to get up and ask President Wilson—

Mr. FEENEY. Pardon me. You never said any such thing.

A. I never asked him to do that. I said what I would do. I did not say I asked him to do that.

Q. What did you say you would do if you were in Congress?—A. I said, in response to some of your questions, or Mr. Feeney's questions—whoever asked me—if I had been in Congress, I would have asked him when he was addressing Congress what was England's attitude to be toward Irish independence before I would have voted for a declaration of war, because representatives of the English Government were here pleading with the Government of the United States. They were in conference, and I would want to know, as a citizen of this great district, and its representative, if Belgium and all these other nations—small nations—which I am glad they are going to have liberty, if they were going to have it—and Ireland was to be excluded. That is what I said, sir.

Q. You were offended with Tague for not having done that?—A. I was offended with Tague, not so much for not having done it, but for saying that he was told not to do it by somebody, and blaming it onto somebody else.

Q. And that is what you said you called him a quitter for?—A. Yes, sir. Because he promised, he promised before he went over that time, when that matter came on, that he would make a speech on the floor of Congress while the matter was under consideration and ask, not President Wilson, but ask for a definite statement, what was England's attitude going to be on Irish independence. I had in mind, sir, the way the English Government treated the home-rule proposition, when they secured John Redmond's support, and the support of the Irish members of Parliament, to back Wilson up in the war, and then said it was a scrap of paper, and I did not believe in England fooling our Government, fooling our Government and getting this great Nation of ours to fight the battles of the people and have the people from the land that my fathers came from excluded. If he had done that, I say we would be in no position, as we are to-day, questioning whether or not the Nation that sent the most men of any part of the world, practically, to fight this fight for small nations, would be now looking for crumbs at the peace table of the world, when they should be among the first to be allowed a seat at it. That is my position, sir.

Q. You said that Tague, if he done that, it would make him the biggest man in America?—A. Not in America. You couldn't make him the biggest man in America. He is too small.

Mr. FEENEY. I ask we adjourn now until 2 o'clock.

Notary MANCOVITZ. We will suspend until 2 o'clock, Mr. O'Connell.

(Noon recess.)

AFTERNOON SESSION.

MARTIN M. LOMASNEY, cross-examination resumed.

Deputy Marshal JAMES BACKUS. I want to say, gentlemen, before the hearing begins that any conduct that is not consistent with the atmosphere of a courtroom will result in the offender being ejected from the room. That applies to everyone. I only ask you to be orderly; that is all.

Mr. O'CONNELL. Are you all ready?

Notary MANCOVITZ. Proceed.

Mr. LOMASNEY. I want to apologize for being absent. I done the best I could to get back on time.

Q. (By Mr. O'CONNELL.) I want to call your attention, Mr. Lomasney, to this article in the Boston Post, September 29, 1906, as follows:

LOMASNEY AND KILEY ASSAILED—MAYOR'S PAPER SAYS THEY ARE TRAITORS TO DEMOCRATIC PARTY.

"Mayor Fitzgerald's paper, the Republic, this week refers to Messrs. Martin Lomasney and Daniel J. Kiley, the ward 8 leaders, as traitors to the Democratic Party on repeated occasions.

"Mr. Lomasney is referred to as a man who inspired brute force in politics in Boston. Both are alleged to have become rich through politics.

"In the full-faced type that precedes the article the Republic declares that Edward W. Dixon, the mayor's candidate for the Senate, will split ward 8 on Tuesday.

"It also declares that when the fight for alderman takes place about a month hence the Hendricks Club will be torn asunder.

"It says that Leader Lomasney began his political career as an ally of the Republican Party. The main article is in part as follows:

" ' LINES OF BATTLE.

" 'The battle of Tuesday next is but the beginning of next year's mayoralty campaign. The issue is now made, and Mr. Lomasney will lead in the fight in opposition to the administration. We do not think that he will have much courage to enter after the result of Tuesday's battle is known, but he can do nothing else. There will probably be just one more fight left in him. There is some chance of defeating him for the legislature.

" 'Martin will be on Beacon Hill next year, and in the Republican Party, unless we miss our guess. There is no other place for him to go. He will try, of course, to get together the forces which were lined up with him last year.

" 'He will have no success here, no more than he had on election day, when he tried to induce them to follow the Frothingham standard. Failing in this, he will try to get the discontented elements together. Even in this he will not be successful to any considerable extent.

" 'The leadership of Lomasney and Kiley, who supported Frothingham, will have no standing in the Democratic primaries against John F. Fitzgerald. This situation will become apparent to him, and, as we intimated above, but one course will be open to him—to become a full-fledged Republican.' "

I want to make a note that Mr. Feeney has warned the stenographer not to take this question.

" 'Tuesday, September 25, will mark another chapter in the downward career of Martin M. Lomasney and Daniel J. Kiley, and they will constantly grow weaker, until not a vestige of their power is left in ward 8.

" ' BETRAYAL OF THE PARTY.

" 'Next Tuesday will mark the beginning of a campaign that, we think, will result in the extinction of Lomasneyism and Kileyism in Boston. If the ward 8 style of politics was permitted to continue there would be no Democratic Party here in a short time.

" 'During the past 10 years ward 8 has voted just as the selfish interests of Martin Lomasney and Daniel J. Kiley dictated. In 1898 the ward betrayed John H. Sullivan, Democratic candidate for the board of apportionment. In 1900 the ward betrayed James A. Gallivan, Democratic candidate for street commissioner. In 1901 the ward betrayed John P. Manning, Democratic candidate for clerk of the superior court. In 1905 the ward betrayed John F. Fitzgerald, Democratic candidate for mayor.

“In the common council, during this same period, ward 8 has repeatedly formed alliances with the Republican Party to protect its own selfish interests.

“Mr. Kiley used this power to secure contracts from every administration, and has grown rich and waxes fat because of the favors given him during their period of time.

“WARD 8 AT CITY HALL.

“Up to the present time nobody has dared to challenge their power or to make any attempt to stop these political highwaymen. Lomasney's industry and perseverance have been tremendous, and he is peculiarly adapted for guerrilla warfare. He has been intensely practical in politics all his life. He has accumulated a large fortune, while everyone around him, with the exception of Mr. Kiley, is poor.

“Kiley is the only man who has dared to infringe on Martin's financial realm. For this reason some few years ago Lomasney took a tremendous dislike to Kiley. He did not relish the financial tastes that Mr. Kiley was acquiring.

“After election was over Kiley and he, for the first time in years, found themselves without personal gain at city hall. There were no loan bills. Mayor Fitzgerald had served notice that no scandal would be connected with his administration and that the practice of buying votes in the common council, instituted by Lomasney and Kiley, must cease.

“Other privileges which Kiley and Lomasney had enjoyed in ward 8 for years were known to be free to every citizen of ward 8. Kiley likewise got no contracts.

“Both men found themselves deeply humiliated by this situation of affairs and made up their minds to make one last desperate effort to get some hold which would be of practical service to them. Kiley made known his claims to Lomasney to go to the senate. Martin, practical gentleman that he is, said that if he spent the money he would back him. Kiley, whose wealth amounts to six figures, said he would take the chance, and the battle was on.

“As we have said above, a condition rather than a theory faced the administration. Word was sent to the chief executive of the city that if he would obtain the backing of ward 6 for Mr. Kiley he need have no fear of any trouble for a renomination and reelection to the mayoralty next year. The mayor spurned the offer.

“BREAK IN HENDRICKS CLUB.

“There is a schism in the Hendricks Club. There is a violent smouldering going on underneath. Word is passed from mouth to mouth that ward 8 will not go down for Mr. Kiley. Martin pleads pitifully for the poor laboring man of ward 8, and calls upon the people to witness the reign or terror which the administration is installing at City Hall.”

You are familiar with that article?

Mr. FEENEY. Wait a moment, please, I object.

Notary MANCOVITZ. Excluded.

Q. I ask you, Mr. Lomasney, if what Mr. Fitzgerald said about you was true?

Mr. FEENEY. I object.

Notary MANCOVITZ. You needn't answer. It is excluded.

Mr. FEENEY. I think now it is time to get to 1918 and not get back into 1906 and 1907.

Notary MANCOVITZ. Excluded.

Q. If Mr. Fitzgerald told the truth at that time, you were a tremendous success and peculiarly adapted to guerrilla warfare?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded. You needn't answer.

Mr. FEENEY. I object.

Q. Mr. Fitzgerald says that you have repeatedly formed alliances with the Republican Party to protect your own selfish interests. Did Mr. Fitzgerald know what he was talking about when he said that?

Mr. FEENEY. Pardon me.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I object.

Q. Is Mr. Fitzgerald's statement of the number of times and parties whom you have defeated a truthful statement?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. I am offering this article at this time to show that Mr. Lomasney's statement about himself and Mr. Fitzgerald is false and is only a pretext, and that as a matter of fact there was a deal between the two men and that each knew the other's character and that what Mr. Fitzgerald said about Mr. Lomasney was truthful, and I am giving Mr. Lomasney a chance at this time to defend himself against what Mr. Fitzgerald said, if he has any defense.

Notary MANCOVITZ. Excluded. You needn't answer, Mr. Lomasney

Mr. O'CONNELL. Do you mean to tell me I can't examine into that, sir?

Notary MANCOVITZ. Not this line of questions.

Mr. O'CONNELL. You remember, Mister, you have no right to exclude any questions.

Notary MANCOVITZ. I am going to assume that right, sir.

Mr. O'CONNELL. Well, your assumption of it doesn't give it to you.

Q. Will you answer my question, Mr. Lomasney?

Notary MANCOVITZ. You needn't answer. It is excluded.

Mr. FEENEY. I object.

Mr. O'CONNELL. Will you mark this, Miss Cole?

Mr. FEENEY. I object to the introduction——

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I object to the introduction of any papers of 1906.

Mr. O'CONNELL. It will go to Washington and Congress will read it. The stenographer will note this has been excluded by the notary. It will be a different story down there.

(The article from Boston Post, dated 9-22-06, "Lomasney and Kiley assailed," is offered and marked "Exhibit No. 110." Article dated 9-26-06, "Lomasney loses most bitter fight," is offered and marked "Exhibit No. 112.")

Q. Now, then, you said you made up with Mr. Fitzgerald because you say he broadened. Is that so?—A. Yes, sir.

Q. Let us see. I call your attention to the Traveler of June 7, 1907, which goes on to show the reason why you made up with Mr. Fitzgerald was that you were able to get contracts from the city administration.—A. I never got no contracts from any city administration.

Mr. FEENEY. Pardon me, Mr. Lomasney.

Q. I call your attention to this article in the Boston Traveler, June 7, 1907, "Cuddy heals breach; one of Lomasney's lieutenants receives contract from the city; Fitzgerald is mum."

"Ex-Representative William M. Cuddy of ward 8"—

The WITNESS. William H. Cuddy.

Q. What did I say?—A. William M.

Q. I beg your pardon. Thank you for the correction.—A. I like to be precise.

Q. If there are any other notes or any other things in the article that are wrong will you also correct them?—A. No. I want you to state the man's right name.

Mr. O'CONNELL. Now I want to say, "Ex-Representative William H. Cuddy of ward 8, one of Martin M. Lomasney's trusted political lieutenants, has gone into the contracting business, and is receiving contracts from the present administration at City Hall.

"This information was given this morning by Mayor Fitzgerald himself, so there is no likelihood of it being denied.

"In the last campaign, Lomasney fought Mayor Fitzgerald tooth and nail, placing City Clerk Donovan against him in the primaries and supporting the Republican candidate at the polls.

"Cuddy, it is supposed, supported the Lomasney ticket, since he has always been prominent in the Hendricks Club and in the support of its candidates. His relations with Lomasney have never ceased to be of the very strongest nature.

"During the fight two years ago, Cuddy remained in the city employ as a first-assistant assessor at a salary of \$1,000 a year. He has not relinquished that position, and there is no prospect of his doing so unless the contracting business becomes less profitable.

"It has been reported for some time that Lomasney and the mayor were getting together, but the most diligent search on the part of political writers

failed to reveal anything substantial in that direction until the mayor gave the above information.

"As a matter of fact, there has been no 'getting together' on the part of the mayor and Lomasney, if speaking relations count for anything.

"It is doubtful if the mayor and the ward 8 leader have exchanged a word since the last mayoralty campaign.

"With some of the ward 8 politicians Mayor Fitzgerald has been on particularly friendly terms, and this is so in the case of Alderman Daniel A. Whelton, for whom the mayor entertains a very high regard.

"He has also been very friendly towards Mr. Cuddy, and possibly a few other ward 8 men who are recognized as political associates of Lomasney.

"The mayor was asked if the giving of a contract to Cuddy meant that he (the mayor) and Lomasney were getting together politically.

"The mayor declined to discuss the giving of contracts in connection with politics, and intimated that he could not help what the reporter or others might believe.

"The contract which Cuddy has pulled off will not be worth more than \$1,000 at the very most. It is for patch paving on Tremont Street, a line of work in which ex-Councilman Daniel J. Kiley, of ward 8, who is now said to be worth \$500,000 or more, made his beginning, and from which he developed a flourishing business."

Q. Now, then, is that article true or not?

Mr. FEENEY. Wait a minute.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. Wait a minute.

Mr. O'CONNELL. I now offer this in evidence, and ask to have it marked as an exhibit.

Mr. FEENEY. I object to it.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. Mark that, Miss Cole.

Mr. FEENEY. Note my objection, will you.

Mr. O'CONNELL. Congress will take it all right.

(The article from Boston Traveler dated June 7, 1907, headed, "Cuddy heals breach," is offered and marked "Exhibit No. 113.")

Q. Isn't it true, Mr. Lomasney—— A. Mr. Feeney——

Mr. FEENEY. Pardon me, Mr. Lomasney. If you will pardon me, let Bro. O'Connell go ahead with his next question.

Mr. O'CONNELL. Fight it out now. Decide that.

Mr. FEENEY. Pardon me, pardon me.

The WITNESS. Go ahead, sir.

Mr. FEENEY. I am going to try to get this man up to 1918, if I can get him there.

The WITNESS. All right.

Q. Isn't it true that the reason you and Mr. Fitzgerald made up was because you were able to make terms with him by which he gave contracts to you and your friends in the Hendricks Club?—A. No, sir.

Q. Isn't it true that that was the meaning of the reestablishment of friendship between you and he when he commenced to give contracts to Mr. Cuddy?—A. No, sir.

Q. How soon after that affair of Cuddy's getting that contract did you and Mr. Fitzgerald come together?

Mr. FEENEY. Pardon me; I object.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I object. I want to try this Tague-Fitzgerald case some time.

Q. Will you answer the question?

Mr. FEENEY. Pardon me.

A. The notary has excluded it.

Notary MANCOVITZ. Ask your next question.

Q. Why won't you answer the question?—A. The notary has excluded it.

Q. Why won't you answer it?—A. Because the notary and the colonel, who carries the flag, don't want it answered.

Q. That is the only reason, is it?—A. Ain't that reason enough? I follow the leader.

Q. Isn't it a fact that you are using it as a pretext rather than as a real reason?

Notary MANCOVITZ. You needn't answer that question. It is excluded.

Q. (Continuing.) That you are supporting Mr. Fitzgerald because he is now singing "Sweet Adeline," and, as a matter of fact, the reason is because you and he are expected to get interested in contracts in Washington?—A. No, sir.

Q. Is it not a fact that you sent John F. Fitzgerald to Washington to protest against the William F. Kearns Co. receiving the contract for the building of the great storehouse on our harbor front?—A. I did not.

Q. Did you ask Mr. Tague to protest to the War Department against the awarding of the contract to the Kearns Co.?—A. I did. I did.

Q. Did you, at that time, tell him that you wanted to stop Mr. Feeney from working in on that contract?—A. I did not. I told him that I thought——

Q. Did you state——A. Pardon me. Let me answer the question.

Q. You answered the question.—A. I want to answer it in my own way. I am telling you why. I told him I felt ex-Mayor Curley was getting in on the contract. I said, "If ex-Mayor Curley gets in on that contract and Kearns gets it and has the patronage that goes with it and the profit, it is going to be pretty tough sledding for people who have been fighting in the past, and it is good political judgment to fight it." I had no personal feeling against Kearns. It was simply a case of political sagacity to stop Mr. Kearns if ex-Mayor Curley was associated with him. That was my reason, sir. That is what I told Mr. Tague.

Q. You knew at that time when you say—this was last summer, wasn't it?—A. Whenever it was sir; get the dates and that is the fact.

Q. You knew at that time that Congressman Gallivan and Mayor Curley weren't on speaking terms, didn't you?—A. I did not know it for sure. I did not know it for sure.

Q. Did you drop Gallivan?—A. No, sir.

Q. Did you go to Mr. Curley?—A. Mr. Gallivan and I had no talks. Pardon me; let me answer the questions.

Q. Go to it. Tell us it all.—A. Certainly. Restrain yourself now.

Q. Tell us it all.—A. Restrain yourself, now.

Q. Tell us the whole, now.—A. I hadn't talked with Gallivan, I do not think, for a year or more. I hadn't talked with Gallivan during the whole transaction. There is no question but what I did not want to see Mr. Kearns get that contract, not that I had anything against Mr. Kearns, not that I had anything against ex-Mayor Curley personally, but politically I did not want to see Mr. Kearns get that contract and allow ex-Mayor Curley to have the patronage that would go with it, and also the proceeds.

Q. Didn't you state at that time to Mr. Tague that it was his duty to go down there and stop that so that your company could get it?—A. I had no company that wanted it.

Q. Weren't you interested in the Beatty Co.?—A. The Beatty Co., never—pardon me, just restrain yourself. The Beatty Construction Co. couldn't carry on that contract. The Beatty Construction Co. never bid on that contract. The Beatty Construction Co. never bid on any contract like it at all.

Q. Are you sure?—A. Yes, sir.

Q. Didn't you send——A. About that statement, if Mr. Tague told you that, that is an unqualified falsehood.

Q. Didn't you send Mayor Peters down to protest against——A. I did not.

Q. (Continuing.) Against the Kearns Co. getting it?—A. I did not. I never talked with Mayor Peters in my life on the matter.

Q. Didn't you tell Mr. Tague that if Mr. Fitzgerald was in Congress you could get him to stop that contract, and he would be able to get you a contract in which both you and he would be interested?—A. I never told him anything of the kind.

Q. All right. Anything further to say about it?—A. No, sir.

Q. All right. How many times did you urge Mr. Tague to protest against the Kearns Co.?—A. I urged him——

Q. Getting that contract?—A. I urged him to fight it morning, noon, and night; to lick it if he could.

Q. And during those times that you were urging him, did you have a conversation with him?—A. Pardon me, I did not get that.

Q. Tell your counsel to keep quiet.—A. He is Mr. Fitzgerald's counsel.

Q. He is Mr. Fitzgerald's counsel—I don't blame you. I am asking you to listen to the question.—A. I am going to try to, sir.

Q. You say you talked with him morning, noon, and night?—A. I urged him to fight it morning, noon, and night.

Q. How many times did you urge him?—A. I couldn't tell you. As often as I could get near him and reach him.

Q. During those conversations you talked with him about the necessity of stopping it?—A. I talked with him about the political expediency of stopping it.

Q. You talked with him about the political expediency of stopping the building?—A. No, no, no.

Q. A \$20,000,000 proposition?—A. No, no, no.

Q. In Boston?—A. No. I talked to him about the political expediency of stopping the William F. Kearns Co.—which the papers stated ex-Mayor Curley was interested in—getting that contract. I did not care about anybody else.

Q. During those conversations with Mr. Tague, did you describe to him how Mr. Feeney was interested in that contract?—A. I did not. I did not know Mr. Feeney was in it until toward the end of it.

Q. Did you mention it at all?—A. I did not mention it at all.

Q. Did you mention how you could manage the contract should he do this—if that was stopped?—A. I never got a contract in my life.

Q. Who did you have in mind?—A. I had no one in mind. I wanted to lick Kearns and Curley.

Q. You had supported Curley for mayor?—A. Yes, sir.

Mr. FEENEY. Pardon me.

Q. The first time he ran?

Mr. FEENEY. Pardon me, Mr. Lomasney. I object. Please give us a chance to be heard. Poor Curley ought not to be brought into this fight here.

The WITNESS. I never want—I am not doing anything to Curley. I never believe in kicking a man when he is down. I don't want to knock him, but he is drawing questions out of me.

Q. You brought him in there and you manhandled him for a few minutes?—A. You put the questions up to me, and you are responsible. If Tague told you the truth, he would tell you that was so.

Q. Coming back again, Mr. Lomasney, with your making up with Mr. Fitzgerald, was not one of the reasons why you made up for him, following close on the Cuddy matter, the fact that Fitzgerald ordered the board of street commissioners to carry out the laying out of Dix Place and Burroughs Place, in which you had a large holding of real estate?

Mr. FEENEY. Now, pardon me.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I know you are desirous to answer, but I object.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. I want to show that the reason that he has given is not a truthful one. I want to show that the real reason between Mr. Fitzgerald and Mr. Lomasney is a partnership in the spoils.

Q. Now, then, you stated in part of your testimony that that was one of the reasons you made up with Mr. Fitzgerald that he did not discharge the men who were members of your organization. That is true?—A. I stated—

Mr. FEENEY. Now, pardon me.

Q. Isn't it?

Mr. FEENEY. Now, pardon me. I object, Mr. Notary. That is a matter—

Mr. O'CONNELL. Why, this is cross-examination.

Mr. FEENEY. That is a matter Mr. O'Connell went into himself. That is a matter which he brought out himself. He has got no right to rehash and go all over it again.

Notary MANCOVITZ. It wasn't part of your case.

Q. Isn't that true?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. I am not going into it again. I am simply going on with the next question.

Mr. FEENEY. Go ahead with the next question, then.

Q. Isn't it true that Mr. Fitzgerald did discharge many of the men of the Hendricks Club?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Q. Isn't that so?

Mr. FEENEY. I object.

Mr. O'CONNELL. I want to show that this man told an untruth when he said that Mr. Fitzgerald did not discharge men, and that for that reason he made up with him.

Mr. FEENEY. Now——

Mr. O'CONNELL. And in pursuance of that, I want to name the men that Mr. Fitzgerald did discharge, and I insist I have got a right to ask that question.

Mr. FEENEY. Now, Mr. Notary, I object. Of course, it is apparent that my friend has a reason for delaying this hearing. He knows that I served notice on him that I wanted to put John F. Fitzgerald on the witness stand to-day. I want to do it. I want this man to complete his cross-examination, and he is afraid to cross-examine John F. Fitzgerald. That is the reason why he is creating all this delay.

Mr. O'CONNELL. That is to laugh. That is in keeping with all your other cheap stuff.

Mr. FEENEY. I object to that question.

Q. Isn't it a fact that Mr. Fitzgerald did discharge Patrick J. McNulty——

Mr. FEENEY. Wait a minute. I object.

Q. (Continuing)——one of your ward leaders?

Mr. FEENEY. I object.

Notary MANCOVITZ. Excluded.

Q. Isn't it true that Mr. Fitzgerald did discharge a great number of your friends in the Hendricks Club, and as the result of that, you went to the Legislature and put through a bill in order to prevent him from dismissing the men from the city employment?

Mr. FEENEY. Now, I object. I know you are desirous to shoot back, but I object, because it has nothing to do with the question before this commission.

Notary MANCOVITZ. Excluded.

Mr. O'CONNELL. You are getting afraid, aren't you?

Mr. FEENEY. No.

Mr. O'CONNELL. You are getting afraid, aren't you? The truth is hurting.

Mr. FEENEY. Anybody——

Mr. O'CONNELL. "Let the galled jade wince."

Mr. FEENEY. Anybody who would be afraid of you——

Mr. O'CONNELL. You are afraid to let Mr. Lomasney answer these questions. There is where the yellow comes.

Mr. FEENEY. When I look at you, I can see yellow enough.

Q. Isn't it also true that when Mr. Fitzgerald went in that he canceled all the contracts that had been signed by Mr. Whelton, who was acting mayor, and at that time a member of the Hendricks Club?

Notary MANCOVITZ. Excluded.

Mr. FEENEY. I object. We are not going back into 1904 and 1905.

Mr. O'CONNELL. I am going back into the testimony he insisted on giving here yesterday, and I am going to show that that terrible statement he made was false from beginning to end, and I have a right, under cross-examination, to do so.

Mr. FEENEY. This is a fine exhibition of cross-examination, but I still object.

Mr. O'CONNELL. I don't have to take any lessons from you on it.

Mr. FEENEY. But you ought to take lessons from somebody, God knows.

Q. Is it not true that you decreed that Mr. Whelton, when he was mayor should unceremoniously discharge from public office Judge Corbett, Charles Logue, and R. Clipston Sturgis?

Mr. FEENEY. Now, wait a minute.

Notary MANCOVITZ. Excluded.

Mr. FEENEY. The gentlemen who talks about——

Notary MANCOVITZ. Excluded.

Q. Will you answer the question?

Notary MANCOVITZ. It is excluded.

Mr. FEENEY. Pardon me. I object.

Mr. O'CONNELL. Now, Mr. Notary, I want to say to you, sir, that during the cross-examination of the witnesses produced by us, I did not, at any time, stop any cross-examination. I now want to say I ask a suspension of this hearing in order to permit me to go and see Federal Judge Morton, and I invite you and Mr. Feeney to accompany me, because you have got no right to abuse the position you are in. Your position is that of a notary only, and you have got no right to advise this man to not testify, and I therefore invite you to come with me now to Judge Morton in order that I may get an order obliging you to desist from this purpose that you have manifested, of keeping out of this case the evidence which Congress has ordained shall be received, of which they are to be the judges. I ask for a suspension to give me the opportunity to go there.

Notary MANCOVITZ. Mr. O'Connell, I will receive orders from Judge Morton.

Mr. FEENEY. Mr. Notary, I want to say this, that if Judge Morton wants to see me, I will be delighted to go down, and I would like to have some of the questions which my friend has been asking here submitted to Judge Morton.

The WITNESS. It seems Joe is running away.

(Counsel O'Connell leaves room.)

Notary MANCOVITZ. You may be excused, Mr. Lomasney. We will take a recess.

Mr. FEENEY. Let us stay where we are.

The WITNESS. Stay where we are.

Mr. FEENEY. We will wait for Judge Morton.

The WITNESS. I am an old-timer, and it is a bad thing to boast.

(Short recess.)

Mr. FEENEY. Mr. Harrington, I wish you would send word to Mr. O'Connell that I am going to offer some evidence in the next ten minutes whether he be here or not.

(Mr. O'Connell reenters room.)

Mr. FEENEY. Mr. Lomasney, please——

(Witness resumes stand.)

Mr. O'CONNEL. We have returned from a conference with Judge Morton of the United States District Court, and the Judge stated that inasmuch as the Federal courts are statutory courts, he, as a judge, had no jurisdiction to act on any acts of Notary Mancovitz or the witness, Mr. Lomasney, but that the matter was entirely in the hands of Congress. Now, I have this statement to make of mine, that inasmuch as the notary has ruled that the witness need not answer the questions that I refuse to be a participant any longer in this contemptuous attitude toward the law of the land. The refusal of the witness to answer, the action of Mr. Mancovitz in telling him that he need not answer after Congress has laid down laws and rules under which testimony is contested congressional election cases shall be taken, as set forth in the United States Revised Statutes, is in keeping with the contempt which he, both of them, and all the people connected with the Fitzgerald outfit have shown from the very beginning in their conduct before the election board, in their attitude before the election commission, in the conduct of the election itself, and in the conduct of the witnesses in refusing to answer summonses to come before this tribunal to give testimony, after being solemnly summoned to appear here by the proper instruments of the law. I refuse absolutely to continue this examination, inasmuch as this witness refuses to answer a question.

The WITNESS. Mr. O'Connell, you asked me about some paper. You had some dispatches. You said there was some letter you wanted to question about. Don't leave the room, Mr. O'Connell, without pushing that letter up to me that I said I had no copy of. You said you would do that.

Q. Have you any other witness to examine today?—A. Mr. O'Connell do you refuse to produce that letter? [No response.] You said you had a letter that I sent to Mr. Tague on the matter of the President's policy. I said I did not have it. You said you had and you would read it. Now, you examined me on that letter and I gave you my viewpoint of what it was. I trust you will be gentleman enough, at least—that is not completed—to go into that question and let the letter be read in so that we know whether I gave it true or not. I do not care whether you do or not, but I think in fairness, in view of what I said, you ought to do that, particularly the way you want to realize that I am here just as your witnesses were, and I will be glad to answer all of these questions. I will be glad, but I can not go against the notary and Mr. Feeney. But you said that you would use—produce that letter and some telegrams. You stood there and shook them in my face. I call upon you and I call upon your representative—the man you represent—the Congressman, as you call him; I say ex-Congressman Tague—to produce any letter, any telegram or anything else you have that you think can make me leave this stand here that will assist him in any way to help him to win his case here or to lose his case.

Notary MANCOVITZ. Mr. Feeney may proceed.

Redirect examination:

Mr. FEENEY. I take the liberty Mr. Chairman and gentlemen——[Addressing Mr. O'Connell.] Mr. O'Connell, will you produce the letter of which you said you had a copy?

[No response.]

Mr. FEENEY. Mr. O'Connell?

(No response.)

Mr. FEENEY. Will you produce the letter of which you——

The WITNESS. I will produce that letter for him, a copy of it. I do not know whether it is right or not. Let me read the copy I gave him, and I will read Mr. Tague's reply.

Mr. FEENEY. Go ahead, sir.

Mr. O'CONNELL. Bring on the next witness.

The WITNESS. (Reading:)

BOSTON, February 4, 1917.

FRIEND PETER: After reading Hon. William J. Bryan's statement in to-day's Globe, I felt it my duty to state that in my opinion he is absolutely right in the position he has taken. I believe it to be the duty of every levelheaded representative in Congress to go slow before they plunge this country into war on England's side. Keep your eye on the ball, and don't get carried off your feet by the loud cheering in Washington. The plain people of the country are now repeating Gen. Grant's "Let us have peace" more and more every day.

Respectfully,

Address,

Hon. P. F. TAGUE.

M. M. LOMASNEY.

Mr. FEENEY. I offer the letter in evidence now.

(The letter, dated February 4, 1917, from Mr. Lomasney to Mr. Tague, is admitted in evidence and marked "Contestee's Exhibit No. 8.")

The WITNESS. Don't you go, Mr. O'Connell. I told you I would make you quit. Don't you go.

(Mr. O'Connell leaves the room.)

The WITNESS. Don't you go until you hear the rest of it. Don't desert Peter F. Tague. Don't desert your client. He will need you. He will need you. O'Connell quits. Mr. O'Connell, for the respect of your name, I never knew an O'Connell before to be a quitter. Stand your ground.

Q. Did you get an answer to your letter, sir?—A. Yes, sir.

Q. Read it, please.—A. (Reading:)

"COMMITTEE ON POST OFFICES AND POST ROADS,

"HOUSE OF REPRESENTATIVES, UNITED STATES,

"Washington, D. C., February 7, 1917."

There are a lot of names here—Fifty-fourth Congress.

"Hon. Martin M. Lomasney, 11A Green Street, Boston, Mass.

"FRIEND MARTIN: I received your letter of the 4th inst. in relation to the German situation, and in reply will say you can rest assured that I will never vote for a declaration of war where there is an opportunity to avoid it. I realize that the situation here is serious. You can not tell from one day to another what will come up. Everybody here is hoping that nothing will rise that will warrant such a vote, and I believe most of them feel as I do on this matter. It will take more than loud talking to steer me from my course.

"Thanking you for your letter, and with kindest regards, I am,

"Very sincerely, yours."

Q. The date of that, please?—A. February 4.

Q. What year?—A. 1917.

Q. Signed by whom?—A. Signed "Peter."

Q. Signed Peter?—A. Yes; I have a letter dated March 29, 1916, in reply to a letter and suggestion I made to him that the mails of the United States be carried in the battleships of the United States; when England was seizing our mails at neutral ports and lawful property of American citizens, I made a suggestion to him that the battleships of the United States carry the mails under the flag of the United States—the mail of our citizens to neutral countries. He wrote a letter dated May 29, 1916. Some parts of it are in connection with a private matter, but I am putting it in. He said:

"I note what you have to say of the mail resolution. It has proven to be quite a sensation. I am receiving many letters from all parts of the country congratulating me upon the resolution, and I believe at this time I should thank the real maker of the resolution. If you have any more good things like this, ship them along."

We shipped a lot of good things to Peter.

Q. That was signed by whom?—A. Peter F. Tague.

Mr. FEENEY. I offer that in evidence.

(Letter dated May 29, 1916, from Peter F. Tague to Martin M. Lomasney is admitted in evidence and marked "Contestee's Exhibit No. 9.")

The WITNESS. Now, I have another letter. Mr. Tague, since this campaign for Congress started you went through this district and this city, where we were both born, and in the heat of the campaign you have charged me with being against you because you stood by the President and the country, and you charged me and had cartoons printed saying I wanted to make money from war contracts, and you done everything of a nature that is unfair. The war was on. You went through this district and you brought your honored children to this district. You said, "What am I going to do if I am defeated?" And you have—and I thank God you have—a respectable home, a respectable family. We went through that fight and I bore it. I kept quiet and I said nothing. I took all their abuse, because a man, he recognizes in a fight, and particularly the older he gets, there is nothing in pulling a man down particularly when you have helped to build him up. At the Ballot Law Commission, in the course of debate, Mr. O'Connell and myself, as we unfortunately do, got excited and I regret it, because O'Connell's blood and mine is a good deal alike. I said then I had a letter that would put you overboard anywheres. You never said then "Read it," and John F. Fitzgerald and all his cohorts talked to me and couldn't get me to print that letter that would beat you for Congress or send him there, because there was some question—what is the use, what is the use of pulling a man down. You don't hit him, as he said, but his wife and children, and all those things. I have neither, but a man ought to realize those things and I realized them and I kept quiet, and we went through that fight, and then this contest came, and I am sorry, Mr. O'Connell, you started in bringing women into it. One woman, I am told—I do not know the lady—Mrs. Feeney almost had a shock when you summoned her about her son. A lot of women were summoned and a lot of other things happened, and then to cap the climax I understand you and Mr. O'Connell went down to the district attorney to ask for the indictment of John I. Fitzgerald. Now, he is a warm blood, just as you and I were when we were young. He has a wife and family, too. That is a very serious thing to do. I never saw a man I hated bad enough to send to jail.

Now, you know, you know you wrote me a letter, and you know I got it. Do you want me to read that letter?

(No response from Mr. Tague.)

The WITNESS. Do you want me to read that letter, Mr. Tague? Do you want me to read that letter, Mr. Tague? I have asked you three times. You are a bold man on the stump, and before election you charged Mr. Lomasney with pretty near everything on the face of the earth. I have been charged with all these things. You had me buried, torn, and quartered by all these fellows, all these caricatures and everything else for year. Now, suppose the thing was changed. Suppose Mr. Lomasney was sitting there and you were here. What would you do? Do you want me to read that letter, Mr. Tague?

(No response.)

The WITNESS. Now, it is very evident—of course, it is true. It is an awful question whether I should do it or not. Am I justified? That is the question. Now, does your silence mean assent?

(No response from Mr. Tague.)

The WITNESS. Do you? You know that is the general understanding, that silence means assent. Do you assent to me reading that letter? He is done. Now, I do not want to do you an injustice. I am giving you an opportunity to elect. How long do you want?

(No response from Mr. Tague.)

The WITNESS. I read once in a book about an old fight in New York when a man killed a man's brother, the old political fight, the old Scanlan fight, when they killed his brother and they were going to count the brother out, and in the book it says he walked into the office of the man who was the important man in New York, and says, "I will give you so much time. If you do not promise me not to count my brother out, because to count him out might kill him, I will kill you." Now, I want to be fair. I do not want to see an injustice done, but I will give you two minutes by that clock to settle that proposition, and I am not promising. I am just talking to you. I will give you—it is now—I will give you until ten minutes of four. You can talk. I want to be fair with you,

because I know what politics is, and I respect your home and I respect your family and everything else.

Mr. FEENEY. In the meantime, Mr. Notary, I want to say that I waited a reasonable length of time for Mr. O'Connell to come back, that I went down stairs and I saw Judge Morton. Judge Morton was alone, and I read to Judge Morton the last question. The question which my brother put, which I objected to, and which caused him to—if he is honest in what he says—abandon this hearing, is as follows:

“Q. Is it true that you decreed that Mr. Whelton, when he was mayor, should unceremoniously discharge from public office Judge Corbett, Charles Logue, and R. Clipston Sturgis?”

and when I read that question to the Judge he said, “What are you having, a trial or a show?”

The WITNESS. Mr. Feeney, I think the time has arrived. Do you give me consent to read that letter, Mr. Tague? He still remains silent. Do you give me consent to read that letter, twice? Third and last call. I would like to talk with you, Mr. Feeney, a minute.

Mr. FEENEY. I would prefer you to use your own judgment on that.

The WITNESS. You are counsel for John F. Fitzgerald.

Mr. FEENEY. If it was on the question of reading that letter, I will have to leave that to you own solemn judgment, sir.

The WITNESS (reading):

[Peter F. Tague, Tenth District, Massachusetts. Joseph F. Kane, Secretary.]

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 28, 1918.

HON. MARTIN M. LOMASNEY,

11-A Green Street, Boston, Mass.

DEAR MARTIN: Last week I wrote you a note asking you to give me at once the name of the contractor who I could use on this building which is about to begin. When I was in Boston, you told me that you would get the same and send it to me at once, and as the building of all the cantonments and housing propositions are under way, and I have an opportunity of getting in on them, I would be pleased if you would give me this at once.

With best wishes, I am,

Very sincerely, yours,

“PETER.”

Q. The date of that is what?—A. March 28, 1918.

Q. Now, Mr. Lomasney, that is dated March, 1918?—A. Yes.

Q. Practically a year after the declaration of war?—A. Yes, sir.

Q. So that there is no doubt that between March-April, 1917, and March, 1918, this man, Mr. Tague, was apparently, so far as you could see, friendly to you?—A. Yes, sir.

Q. And at any time during that period, did he show you in any way that he was unfriendly to you?—A. No, sir.

Q. Now, then, when he asked you in that letter for the name—let me have that, please [witness hands letter to counsel]—of a contractor, did you ever furnish him one?—A. I did not.

Q. Now, then, it reads here, “When I was in Boston, you told me you would get the same and send it to me at once, and as the building of all the new cantonments and housing propositions are under way, and I have an opportunity of getting in on them, I would be pleased if you would give me this at once.” Did you ever give him the name of a contractor?—A. I did not.

Q. Did you ever promise to give him the name of a contractor?—A. I did not. I had a conversation with him.

Mr. FEENEY. This I offer in evidence.

(The letter, dated March 28, 1918, from Peter F. Tague to Martin M. Lomasney, is admitted in evidence and marked “Contestee's Exhibit 10.”)

Mr. FEENEY. He is your witness now, to go at him.

The WITNESS. I want to say, Mr. Feeney, we had a conversation before that. He told me in that conversation he had made connections and there was opportunity for him to make some money. He asked me to give him the name of a contractor it would be safe for him to do business with. I said, “I will think it over.” I never done it.

Q. That was all, Mr. Lomasney?—A. Yes.

Q. One question: Mr. Burlen, of the election board, is the Mr. Burlen who was sitting on the board at the time of the contested election between J. Mitchell Galvin and Joseph F. O'Connell, was he not?—A. I guess so.

Q. Did you have anything to do with the appointment of the ballot-law commission, or any member thereof?—A. No, sir.

Q. Did you have anything to do with the appointment of any of the election commission?—A. Sir?

Q. Did you have anything to do with the appointment of the ballot-law commission?—A. No, sir.

Mr. FEENEY. That is all.

Notary MANCOVITZ (to Daniel T. O'Connell). Do you desire to cross-examine?

Mr. DANIEL T. O'CONNELL. Senior counsel has expressed our position.

The WITNESS. Am I excused from further attendance?

Notary MANCOVITZ. Until you are further notified.

Mr. FEENEY. I move we adjourn until Monday morning.

MARTIN M. LOMASNEY.

(Adjourned to 10 a. m., Monday, March 17, 1919.)

Testimony taken in room No. 443, Federal Building, Boston, Mass., Wednesday, April 2, 1919, at 11.15 a. m., before David Mancovitz, Esq. (presiding), and Abraham C. Berman, Esq., notaries public.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant; John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the contestee.

Mr. CALLAHAN. Are you ready?

Notary MANCOVITZ. Are you gentlemen ready? If you are, proceed, Mr. Callahan.

Mr. CALLAHAN. For the purposes of the record, Mr. Notary, I want to read the notice for this hearing.

MARCH 31, 1919.

JOSEPH F. O'CONNELL, Esq.,

Attorney and Agent for Peter F. Tague,

53 State Street, Boston, Mass.

DEAR SIR: Please take notice that on Wednesday, April 2, at 11 o'clock, we shall examine the following witnesses, before David Mancovitz, notary public, in the matter of the Tague-Fitzgerald election hearing: Melancthon W. Burlen, Frederick J. Finigan, Edward P. Murphy, Jacob Wasserman, William E. Mahoney; addresses, election commission, City Hall, Boston; Herbert H. Boynton; address, secretary of state's office, State House.

The hearing will be held in the United States court room, No. 443.

Very truly, yours,

TIMOTHY F. CALLAHAN,

Attorney for John F. Fitzgerald.

And the officer's return:

BOSTON, April 1, 1919.

SUFFOLK, ss:

By virtue hereof I this day served in hand upon Joseph F. O'Connell, esq., at 10.45 in the forenoon, a duplicate of the within notice.

JEREMIAH A. TWOMEY, *Constable.*

Mr. O'CONNELL. I simply want to say at this time, and in order that the record may have it, that the notice wasn't received at 10.45 a. m. yesterday morning. It was received at 11.10 a. m., and Mr. Twomey's attention was called to that fact in the presence of Mr. Tague, just in order that the record may have the fact.

Mr. CALLAHAN. I do not think there is any dispute about it. I do not want to start a controversy. Mr. Goodwin says it was received before 11 o'clock.

MELANCTHON W. BURLLEN, sworn:

By Mr. CALLAHAN:

Q. What is your full name?—A. Melancthon W. Burlen.

Q. You are an election commissioner of the city of Boston?—A. Yes, sir.

Q. And you are now chairman of the election commission?—A. Yes, sir.

Q. You may sit down if you want to, Mr. Burlen.—A. I just as soon stand. I will stand a little while, and if I get tired I will ask to sit down.

Q. How long have you been a member of the election commission?—A. Between 18 and 19 years.

Q. And how long have you been chairman of that commission?—A. About 11 months.

Q. That commission, Mr. Burlen, is composed of two Democrats and two Republicans?—A. Yes, sir.

Q. And you are a Republican member of that commission?—A. Yes, sir.

Q. Who is the other Republican member?—A. Jacob Wasserman.

Q. And the two Democratic members are Mr. Finigan and Mr. Murphy?—A. Yes, sir.

Q. And there are two Republican members and two Democratic members, because the statute requires that it shall be a bipartisan board?—A. Yes, sir.

Q. And two members of each of the dominant parties are chosen for that board?—A. Yes, sir. Appointed.

Q. Are appointed, rather? They are appointed by the mayor?—A. Yes, sir.

Q. Now, your board, Mr. Burlen, has charge of all the recounts in the city of Boston? That is, recounting ballots cast at primaries and elections?—A. Yes, sir.

Q. And your board had charge of the recount of the primary and of the ballots cast at the primary and election at which Mr. Tague and Mr. Fitzgerald were candidates?—A. We did.

Q. Now, Mr. Burlen, how many precincts are there in that district—that congressional district, do you know?—A. There are 11 precincts in ward 5. I think there are——

Q. Fifty precincts?—A. I think something over 50 precincts. I can't tell exactly.

Q. Fifty precincts. Well, we will show it by the records very soon. And in each one of those precincts—each one of these precincts, Mr. Burlen, there is a voting place?—A. Yes, sir.

Q. Is that so?—A. Yes, sir.

Q. Now, at each one of those precincts how many precinct officers are there?—A. Six.

Q. And those six precinct officers are divided the same as your board—three Democrats and three Republicans?—A. Yes, sir.

Q. Is that required by statute?—A. Yes, sir.

Q. And those six precinct officers have complete control of the primaries and elections at their respective booths?—A. Yes, sir.

Q. Now, besides those six precinct officers, are there always police officers in attendance?

Mr. O'CONNELL. Well, just a second. I rather think it would be better if you would ask questions rather than to suggest an answer.

Mr. CALLAHAN. I don't complain about that.

Q. Are there, besides those election officers, are there police officers in attendance?—A. Yes, sir.

Q. And at each precinct, how many police officers are there?—A. Some portions of the day one, some portions two.

Q. Is there any time during the day, from the time the precincts open at 6 o'clock until the ballots are counted and returned to your department, that there isn't a police officer in attendance?

Mr. O'CONNELL. Just a second, now. I suppose he can testify only from his own knowledge of any particular place.

Q. Being an election commissioner for 19 years, you may testify.

Mr. O'CONNELL. Now, just a second. I ask that our objection——

Notary MANCOVITZ. You can answer the question, and note Mr. O'Connell's objection.

Mr. CALLAHAN. It is a matter of common knowledge any way, and you know it.

Mr. GOODWIN. You mean they ought to be in there.

Mr. HARRINGTON. They go out and get a drink once in a while.

Mr. O'CONNELL. The fact remains that a police officer has already testified that when ballots were changed, there wasn't any police officer present.

Mr. CALLAHAN. It isn't so.

Mr. O'CONNELL. I beg your pardon. It is so. Under those circumstances, it seems to me that the question ought to be so framed that this witness would speak only—testify only from his own personal knowledge of particular places.

Mr. CALLAHAN. Are you through now?

Q. Now, Mr. Burlen, from 6 o'clock in the morning, when the polls open, until 4 o'clock, when they close, or until any subsequent time when they are counting ballots, is there ever a time at any one of those precincts when a police officer is not in attendance?

Mr. O'CONNELL. If he knows.

Mr. CALLAHAN. Wait awhile. Let him answer.

Mr. O'CONNELL. I object to that question.

Notary MANCOVITZ. Note Mr. O'Connell's objection.

Mr. O'CONNELL. And ask it be confined to his personal knowledge.

The WITNESS. It has always been the custom, ever since I have been a member of the board, that a police officer should be in attendance at the polling place.

Notary MANCOVITZ. Mr. Callahan, might I say this: I believe the boxes are delivered to the precinct officers, in the first place.

Mr. CALLAHAN. I know that.

Mr. O'CONNELL. I ask that that question be stricken out as not responsive.

Notary MANCOVITZ. Note Mr. O'Connell's objection.

Q. Is that a thing that is required by the statutes, if you know?—A. No, sir.

Q. That is a precaution that the election department takes, is it, of their own volition?—A. The election department requests the police department to furnish us with an officer.

Q. Officer for each precinct?—A. Each precinct, and we have a list submitted to us from them with the name of the officer of each precinct.

Q. Now, Mr. Burlen, the ballots, before they are sent to the voting places, are kept where?—A. About—or about 12 o'clock of the day before the election, the ballots are delivered to our office from the secretary of state and are under police guard all of that time until they are delivered at the precinct polling place, or at about 6 o'clock, on the day of the election.

Q. They are under police guard. Now, when these ballots—when these ballots are taken to the different voting precincts, in whose custody are they?—A. In the custody of the police.

Q. And the police, I take it, deliver those ballots then to the precinct officers at their respective precincts?—A. Yes, sir; the morning of election.

Q. All these precinct officers are sworn?—A. Yes, sir.

Q. Now, then, at each polling booth, Mr. Burlen, is the ballot box in clear view of the people who are outside?—A. It is.

Q. And in all these precincts, are the voting places schoolhouses or churches, do you know?

Mr. O'CONNELL. Churches?

Q. Or are they some of them in booths?—A. We have some sixty-odd in voting booths.

Q. What is that?—A. Sixty-odd in voting booths.

Q. I mean in these 50 precincts, do you know?—A. In those 50 precincts, some in schoolhouses, some in voting—some in voting booths, and I think one in a vestry of a church or a school—it is a school.

Q. As I understand it, the actual voting place is railed off. Is that so?—A. I will present a couple of drafts that I have made personally, which might be able to help you in some way.

Q. These are made by yourself?—A. Yes, sir.

Mr. O'CONNELL. Is that made in accordance with any request by the attorney for the other side as to what you were going to testify about?

The WITNESS. I have talked with Mr. Callahan regarding the matter.

Mr. CALLAHAN. I told Mr. Burlen that for the information of the congressional committee, I was going in in detail to the whole question of voting to show the careful manner in which it is conducted and also the various safeguards that were thrown around the voting in this city.

Mr. O'CONNELL. Did you tell him also to include the loopholes that were included in it?

Mr. CALLAHAN. Those loopholes only exist in your imagination.

Mr. O'CONNELL. It is funny, but they all happen.

Mr. CALLAHAN. They don't happen.

Mr. O'CONNELL. Transferring a ballot from one box to another in the absence—

Mr. CALLAHAN. You are a very imaginative man.

Mr. O'CONNELL. It wasn't very imaginative when we caught one commissioner going to the vault alone, and they admit it.

Mr. CALLAHAN. You would make anybody admit anything.

Mr. O'CONNELL. They didn't want to admit that. They have been claiming for 10 years nobody knew it.

Mr. CALLAHAN. I will submit these as exhibits later on.

Q. This [indicating] is a copy of a description of a voting booth, where?—A. This is a description of a voting booth in what we call—what we call our large voting booths, and is on the line of preparation—no; this is a description of a voting booth, one of our wooden voting booths; and also, as near as possible, a description of an iron voting booth, which has an entrance and exit onto the sidewalk.

Q. Now, as I take it, this outside line here [indicating] is the outside of this voting booth?—A. Yes, sir.

Q. And this here [indicating] is the entrance to the voting booth?—A. Yes, ser.

Q. Now, this space here [indicating], which is marked "6 feet," is the space that is occupied by those going in to vote, and by checkers and men who are checking up the lists?—A. Yes.

Q. And any people who want to observe the voting?—A. Yes, sir.

Q. Now, at this side [indicating] there is an entrance to the polling place. This [indicating] is the entrance to the—A. Yes.

Q. Now, at that place you have marked "Voting list." What do you mean by that?—A. When a voter attempts to vote, he stands at this entrance and gives his name to the election officer having charge of the voting list.

Q. There is an election officer there?—A. Yes.

Q. In charge of the voting list?—A. Voting list.

A. And he must give his name to that election officer, and his address?—A. Yes.

Q. Is that so?—A. Yes.

Mr. O'CONNELL. Just one minute, now, Mr. Callahan, if you please. I think I am within the facts when I state that there are none of those kind of booths in ward 5. It would seem before any inquiry is made of the election commissioner, we should find out whether there was any such booths in ward 5.

Mr. CALLAHAN. Do I understand you are confining all your investigation to ward 5?

Mr. O'CONNELL. I want to have—I do not want to have the commissioner—

Mr. CALLAHAN. Well, you want me to conduct my examination in my own way, and, of course, I am going to do it no matter what objection you make. Now, we will save time if you won't make your objections.

Mr. O'CONNELL. Oh, Mr. Callahan, I simply must make objections when you do things irregularly.

Notary MANCOVITZ. Note the objection.

Mr. O'CONNELL. At least I object to any inquiry about the election booths from any typical plan that is submitted, unless that plan is the plan of the booths in the district, and particularly in view of the fact that it isn't a plan of any of the booths in ward 5.

Mr. CALLAHAN. Will you name some particular voting place in ward 5, so we can give you a description of that?

Mr. O'CONNELL. All of them—Faneuil Hall and the Washington School and ward room. No booths at all down there.

Mr. CALLAHAN. All right. Now, just for the purpose of clearness, let me say all the precincts—all the voting places in ward 5 are similar.

Mr. O'CONNELL. Are similar to what? There isn't any one similar.

Mr. CALLAHAN. Similar to each other.

Mr. O'CONNELL. Different from each other.

Notary MANCOVITZ. They are all arranged the same way.

Mr. CALLAHAN. I know, but we want to tie down Mr. O'Connell to an accurate statement. Are they all alike? Are they typical in ward 5? Do you want to answer that?

Mr. O'CONNELL. Who are you speaking to now?

Mr. CALLAHAN. Speaking to you.

Mr. O'CONNELL. I didn't know you were speaking to me. If you are, I am not on the witness stand. If you would sit down with me and figure out the various precincts, I would be very glad, indeed, to agree with you as to what they really are.

Q. Go ahead.—A. This booth typifies the iron booth that would be at the corner of Willard and Lowell Streets, ward 5.

Mr. CALLAHAN. This is ward 5. We do not like to confuse you.

Mr. HARRINGTON. What precinct is that?

The WITNESS. I can't remember.

Q. There is an election official here with a voting list, and that voting list has his name, his address, and a description of the voter. Is that so?—A. Yes, sir.

Q. And at this same voting—at this same voting list, there is a police officer, isn't there, with a similar check list?—A. One outside the rail.

Q. One outside the rail with the same sort of a check list?—A. Yes, sir.

Q. And that police officer—that is, there must be a police officer at that check list at all times during the day. Isn't that so?—A. Those are the instructions.

Q. So that there are two men checking off those voters as they come in. First, an election official, and secondly, at the same time doing the checking is a police officer. Is that so?—A. There is a police officer there with a list.

Q. He checks off, too, doesn't he?—A. Supposed to.

Q. The list which the election official has——

(Mr. O'Connell makes a remark not understood by stenographer.)

Mr. CALLAHAN. I wish you could be a little more courteous. You always ask for courtesy, and you like a lot of consideration. Now, this is a technical thing, and we are doing it for the congressional committee, and I ask that you behave yourself. I know it is hard, but try to do it.

Q. That list, at the end of the day, Mr. Burlen, which the election official marks, is sent back to your department, is it?—A. Yes, sir.

Q. And the list which the police officer has, is that sent back to your department?—A. Yes; supposed to be.

And you have both those lists after the election day?—A. Yes, sir.

Q. Now, when they ascertain that the person who asks for a ballot is the person on the list the voter then goes to a clerk who has charge of the ballots?—A. Yes.

Q. And he is given a ballot. Is that so?—A. Yes.

Q. Then he proceeds to this end of the room over here [indicating], where there are voting places?—A. Yes, sir.

Q. And those are arranged so that if a person is voting in one they can't see into the next voting place. Isn't that so?—A. Little covered boxes.

Mr. O'CONNELL. I again object to your form of asking questions and submit they ought to be framed in such a way as not to suggest an answer to the witness.

Notary MANCOVITZ. Note Mr. O'Connell's objection.

Mr. O'CONNELL. I want to have my objection——

Notary MANCOVITZ. It is noted.

Mr. O'CONNELL. Noted to these kind of questions. It seems to me we have a witness on the stand who is capable of telling what took place without being led.

Q. Now, Mr. Burlen——

Mr. O'CONNELL. I want to have my objection noted.

Notary MANCOVITZ. I already noted it, Mr. O'Connell.

Q. After the voter marks his ballot he folds his ballot in that same voting place, doesn't he?—A. Supposed to.

Q. And then he takes the ballot and deposits it in the ballot box. He does at some time at any rate. I will take the next step. When he votes and folds his ballot, what is the next thing that he does?—A. He goes to the clerk in charge of the voting list at the ballot box, gives his name and residence, and if that is found, the clerk checks his name and the election officer at the ballot box allows him to deposit his ballot.

Q. So that a voter, when he comes into the booth first, must give his name, and he must stand before an election official and a police officer with his description, and then when he deposits his ballot he must have his name checked again. Is that so?—A. That is so.

Q. Now, when these men are voting, they are in clear view of everybody in that room?—A. Yes.

Q. Is that so?

Mr. O'CONNELL. Now I object to your stating the facts in a question and suggesting an answer. I ask that my objection be noted to all these questions.

Notary MANCOVITZ. Note his objection.

Mr. O'CONNELL (continuing). Of this character.

Mr. CALLAHAN. Oh, you are funny. You are just funny; that is all.

Q. They are in clear view, Mr. Burlen, of all the people in the room?

Mr. O'CONNELL. Now, then, I object to that and ask——

Q. Isn't that so?

Mr. O'CONNELL. That my objection be noted.

Notary MANCOVITZ. I have already noted it.

The WITNESS. The preparation of polling places in Boston is arranged in such a way that the voting compartments are in plain view of the voters.

Q. Yes. And the ballot box is in plain view of the voters, also, isn't it?—A. I wouldn't want to say that a man depositing a ballot, that a person on the outside of the rail could actually see that man putting the ballot in the box.

Q. Well, in most of the places it is arranged so that everybody can see it, isn't it?—A. He is there at the box performing some act.

Q. And they can see him performing that act?—A. Yes.

Q. All right. Now, let us take another place that perhaps will satisfy Mr. O'Connell. This [indicating] is a place—this is a line or a plan roughly sketched by yourself, isn't it?—A. Yes.

Q. And this is a plan of a voting place other than in the wooden or steel booths?—A. Yes.

Q. This is a typical plan of all the voting places in schoolhouses and churches?—A. Yes, sir.

Mr. O'CONNELL. I object to that as being another statement that isn't——

Notary MANCOVITZ. Note the objection.

Mr. O'CONNELL (continuing). At all proper in a hearing of this kind. I again submit that Mr. Callahan should ask questions rather than make statements, and ask that my objection to his course be noted.

Notary MANCOVITZ. Note his objection.

Mr. CALLAHAN. You make me happy Joe, just looking at you.

Mr. O'CONNELL. That sickly grin doesn't look as though you were happy.

Mr. CALLAHAN. This is rather technical, and I know you could never prove these things, but I am going to prove them.

Mr. O'CONNELL. You are going to try to square a circle, I suppose.

Q. Now, Mr. Burlen, these are booths that are typical of the voting places in schoolhouses and elsewhere. Is that so?—A. This diagram is a diagram of the original booths that were built when the Australian system was first established in Boston. In arranging the polling places in schoolhouses, we tried to arrange them this way [indicating]. I tried to find a diagram. I had one at the office in a scrapbook, which is on this line. This is one entrance [indicating], and you come out the exit at the same entrance, and in schoolhouses, almost invariably, those are arranged in that way.

Mr. O'CONNELL. Do you mind putting into the record at this time the date of the Australian ballot law being invoked in Boston?

The WITNESS. I will look it up. I not remember. I was going to say—'80.

Notary MANCOVITZ. It existed in November, 1918?

The WITNESS. Oh, no; the Australian system was away back—'84. I am not sure.

Mr. HARRINGTON. Either '95 or '96.

The WITNESS. Hold on. It is in the eighties.

Notary MANCOVITZ. Mr. Burlen, it existed in 1918, didn't it?

The WITNESS. Yes.

Notary MANCOVITZ. That is all there is to it.

Mr. O'CONNELL. That is all this judge of ours—that is all there is to it, as far as he is concerned.

Q. Well, now, Mr. Burlen, the difference—the main difference between this plan that you have here and that one that you described a minute ago, is that the voters come in here [indicating], come into the building through one door and go out the same door. Is that it?—A. They come into the voting compartment——

Q. They come to this voting compartment?—A. In the entrance.

Q. And come out the same door here [indicating]. Is that so? Whereas, in this booth arrangement, they come in one door and they go out another?—A. This [indicating] is a wooden rail across here, which is also made in the schoolhouses.

Q. But in every other way, that is the same sort of a voting compartment as this one here [indicating]?—A. Yes, sir.

Q. That is, the voting list is here [indicating] and there [indicating] is the clerk in charge of that voting list?—A. Yes, sir.

Q. And outside there is a police officer with the same voting list?—A. Yes, sir.

Q. And that list contains the name and description of the voter?—A. Yes, sir.

Mr. O'CONNELL. Again I object to this form of statements from Mr. Callahan. Notary MANCOVITZ. Note his objection.

Q. The voter then proceeds and gets his ballot and goes to one of these compartments that is in clear view of everybody, and then deposits his ballot after he has given his name to another election official?—A. Yes, sir.

Mr. O'CONNELL. I ask that my objection be noted to this form of statement. Notary MANCOVITZ. Note his objection.

Q. Now, Mr. Burlen, at 4 o'clock those ballots are taken from the ballot box and counted, are they?—A. Yes, sir.

Q. And they are counted by the regular election officials. Is that so?—A. Yes, sir.

Q. And those ballots are counted in clear view of any spectators who might desire to stay there and see them counted?—A. That is the law, and I think the law has been complied with, as far as I know.

Mr. O'CONNELL. Just a minute. I object again, and I ask that my objection be noted.

Mr. CALLAHAN. Why don't you make a general objection?

Mr. O'CONNELL. If you will make a statement that you are going to continue this kind of an examination and thereby make it necessary for me to continually object, of course we can come to an agreement by which I can make one general objection to all your leading and suggestive questions and statements which you simply ask the witness to agree with. If you are going to do that, I can object now once for all.

Mr. CALLAHAN. The witness is testifying to what is fact, as you know it, and I know it, and everybody knows it, and we are simply doing this for the information of the congressional committee.

Mr. O'CONNELL. I beg your pardon. I do not know those things to prevail, and I have had some experience with elections, and you are simply suggesting the model kind of a case, and I regret to say that the model has not been followed, particularly in ward 5.

Q. Now, when the ballots are counted, Mr. Burlen, in whose custody are they placed?—A. After the ballots have been counted and sealed up in the envelopes and leatheroid box, they are given to a police officer.

Q. And that police officer takes the ballots where?—A. To the office of the election board.

Q. Now, before that is done, at 4 o'clock is the ballot box, or this container, the ballot box in which the ballots were deposited that day, sent to your commission or brought to your commission?—A. Do you refer to the wooden registering ballot box?

Q. Yes.—A. Perhaps I could say in my own way that at 4 o'clock, when the polls are closed, the ballots that are cast are taken out of the registering ballot box.

Q. Yes.—A. And the unused ballots are sealed up in a container, and the unused ballots with the registering ballot box with the voting lists are sent to our office before the votes are counted. Those are the orders.

Q. That is, at 4 o'clock?—A. At 4 o'clock.

Q. The unused ballots, and the ballot box are sent to your office?

Notary MANCOVITZ. And the voting lists?

The WITNESS. And the voting lists?

Q. And the voting lists? And they are in the custody of a police officer?—A. They are in the custody of a police officer.

Q. Now, the ballots are kept at the precinct to be counted; isn't that so?—A. The ballots cast.

Q. The ballots cast are kept there to be counted. That is so, isn't it?—A. Yes, sir.

Q. And they are counted by the regular election officials?—A. Under the statute two election officers, each of a different political party, count them, and two election officers of a different political party watch the count on each block.

Q. And during that whole count, there is a police officer or several police officers in attendance. Isn't that so?—A. There is supposed to be a police officer there.

Q. Now, when the count is finished, in whose custody are those ballots placed?—A. After the ballots cast have been counted, they are sealed up in an envelope—if it is a primary, a canvas envelope if it is a primary, and it is sealed up in a leatheroid box, with a certificate on both the envelope and on the leatheroid box, and given to a police officer, who delivers them to the election board.

Q. When you say the “ballots are put in,” is that what you call a container?—A. We call that a canvas envelope.

Q. A canvas envelope: Tell us how that is used, please?—A. At a primary, the ballots of a political party are taken from the ballot box with the other parties’ and placed in manila envelopes, in blocks of 50.

Q. Yes.—A. Those blocks of 50 are counted on a block and tally sheet, and the tallied blocks are completed for that political party. A total tally sheet is taken by the warden and the clerk, and the results of the block tally sheets are tallied on the total tally sheet. Each block that is counted on the block tally sheets—the block tally sheets are signed by the election officers counting them. When it is completed the block tally sheets and the total tally sheets are put into the envelope of the political party that the votes are counted and sealed and a certificate put on. Then the process of the next political party is counted, and they may have an envelope like this canvas envelope. When that is completed, they are all put in this box, leatheroid box, and a certificate made and given to the police officer to take to the election board.

Q. So you have canvas bags at each precinct for each political party?—A. At a primary.

Q. At a primary?—A. Yes.

Q. And on election day, you have just one canvas bag?—A. The ballots are put in here, and the unused ballots are put in that.

Q. The unused ballots are put in this envelope. At the primary, however, the Democratic ballots would be put in one envelope and the Republican ballots in another?—A. Yes.

Q. And then they would be tied with these canvas strings, would they?—A. Yes, sir.

Q. And they would be sealed?—A. Yes. We have two paper seals.

Q. And those seals would be put on how—with paste or with wax?—A. They are sealed on with gum arabic.

Q. Those containers are put in—those envelopes, rather, are put in that large leatheroid box?—A. Yes, sir.

Q. And that contains what else besides those envelopes?—A. It contains the block tally sheets and total tally sheets. If a primary, it contains the ballots of the other political parties.

Q. Now, that leatheroid box is strapped with canvas straps when the ballots are put in there?—A. They are.

Q. And the ends of those straps are sealed with——A. With this linen seal; with two linen seals.

Q. With a linen seal, and that seal contains the names of the election commissioners?—A. The certificate contains the names of the officers placing the ballots in there. The seal contains the city seal and the ward and precinct.

Q. And if there isn’t a recount, either at a primary or an election, Mr. Burlen, how long are those ballots kept by your commission?—A. Sometimes six or eight months. Sometimes perhaps three or four months. It depends on the volume of the ballots.

Q. And if there is a recount or some dispute about the ballots, they are kept until that dispute is finally settled?—A. Yes, sir.

Q. And in that case you will keep those ballots until the congressional committee decides. Is that so?—A. That is what we will do.

Q. Now, at the recount of the primary in this contest, Mr. Burlen, all those boxes containing the ballots cast at that primary were brought upstairs in your office to be recounted. Isn’t that so?—A. Yes, sir.

Q. At that time, did you find any of the original seals broken on any of those boxes?

Mr. O’CONNELL. Well, if he knows. How does he know? He didn’t see them. He didn’t open any of those boxes. I object to any question like this, because we all know he could not have seen it.

Notary MANCOVITZ. Note his objection and answer the question, if you can.

Q. At the recount—I will withdraw that question. At the recount of the ballots at this contest, was it called to your attention in any case that the

original seals on those boxes had been broken?—A. I do not remember of a case.

Q. Did Mr. O'Connell or Mr. Tague or his several attorneys call your attention to the fact that any of those seals had been broken?—A. I don't remember.

Q. Now, after you opened those boxes and had your recount, they were sealed again. Isn't that so?—A. Yes, sir.

Q. And then taken to the statehouse before the ballot-law commission. Is that so?—A. Yes.

Q. Were all the ballot boxes taken?—A. I think they were.

Q. Was it called to your attention that time, Mr. Burlen, either by Mr. O'Connell or Mr. Tague or any of his attorneys, that any of the seals placed on those boxes at the recount had been broken?

Mr. O'CONNELL. If he knows.

Mr. CALLAHAN. Now, wait awhile.

A. I have no recollection of anything having been called to my attention.

Q. Then, after you examined those boxes that day—before the ballot-law commission, or the ballots were examined—I do not know which—those boxes were again closed and tied up and sealed?—A. Yes.

Q. Is that so?—A. Yes.

Q. And those seals contained the names of the ballot-law commission, didn't they?—A. I think—I wasn't there all the time. I think they did make some indorsement on the boxes.

Q. So the ballot-law commissioners were the ones who sealed those boxes there?—A. Yes, sir.

Q. Now, then, at any subsequent time in your office when those boxes were brought up for examination by Mr. O'Connell or Mr. Tague or his attorneys, was it called to your attention, or did you notice that any one of the seals placed on those boxes by the ballot-law commission had been broken?—A. No; it was not called to my attention, and I did not notice any.

Q. Then, when those ballot boxes—by "ballot boxes" I mean this leatheroid box—when those boxes were again sealed, they were sealed and a seal was put on them containing the name of Mr. Berman as notary. Isn't that so?—A. Yes, sir.

Q. And those ballot boxes are now in your custody in the vault with this seal containing the name of Mr. Berman?—A. Yes, sir.

Mr. CALLAHAN. I would like to offer this box and this canvas container, or envelope, as exhibits.

Mr. O'CONNELL. Is there any significance in the fact that you are offering box 23, referring to the fate of Congressman Fitzgerald?

Mr. CALLAHAN. We have no fear about the fate of Congressman Fitzgerald. I would like to offer these two as exhibits, and have them numbered before the box and the envelope.

(Plans of voting places offered in evidence and marked "Contestee's Exhibit No. 11" and "Contestee's Exhibit No. 12." Canvas envelope is offered in evidence and marked "Contestee's Exhibit No. 13." Leatheroid box is offered in evidence and marked "Contestee's Exhibit No. 14.")

Mr. O'CONNELL. I object to the offering of what are called "Exhibits 11 and 12," because they are not what they purport to be. That is, they are offered as typical plans of the ordinary booth, when, as a matter of fact, Mr. Burlen says they are plans of the model booth that was contemplated at the time the Australian ballot law was started here in Boston, back in eighty something.

Mr. CALLAHAN. Mr. Burlen did not say anything of the kind.

Mr. O'CONNELL. And of which there are only 60 out of 300 and some odd in this city, and probably very few of them in that district.

Q. Now, Mr. Burlen, you were present at the recount of the primary votes in this case?—A. Yes, sir.

Q. And you were also present at the recount of the votes of the election between Mr. Tague and Mr. Fitzgerald?—A. Yes.

Q. Now, will you describe, please, in your own way, and we will try to accommodate Mr. O'Connell. Please describe in your own way the location of the place, or the kind of a place, in which you count the ballots; how they are counted, by whom they are counted, and tell us about the watchers, and so forth.—A. At our office?

Q. At your office.—A. We have a large workroom, which contains a number of large wooden tables, about the size of that in front of the desk.

Q. And that table is about 9 by 4?—A. Well, it isn't quite 4.

Q. Well, are your tables as large as this?—A. Larger than that.

Q. Larger than that?—A. Yes.

Q. Give your best judgment.—A. Well, I should say that our tables were 4 by—4 by 7.

Q. Four by seven?—A. As near as I can guess; and at that table we place one Republican and one Democratic registrar, and we allow at that table—I think we did at both these functions—two men for each candidate, for the reason that one man was to watch the man call and one man was to watch the man check. I can't remember——

(Extended colloquy.)

The WITNESS. We arranged a table for each ward to be counted. The first precinct of each ward was placed on the table. The counters opened the boxes and proceeded to count.

Q. Now, will you tell us about the checkers at each one of those tables?—A. Those representing the candidates?

Q. Yes.—A. As near as I could understand it, the candidates were fully represented at each table by two checkers.

Q. Now, probably I can save some time by going ahead. I understand that you sent out to the respective candidates enough tickets so that they could have two checkers at each table?—A. Yes, sir.

Q. And those tickets were sent to Mr. Tague, as well as to Mr. Fitzgerald?—A. Yes, sir.

Q. Now, you say that the box—a box is brought up from your vaults and opened on the table in view of the checkers of the respective candidates?—A. Yes, sir.

Q. And there is a Republican at one side of the table and a Democrat at the other?—A. Yes.

Q. Both officers of your department?—A. Yes.

Mr. O'CONNELL. One minute. I object to these forms of questions, and again ask that my objection be noted.

Notary MANCOVITZ. Note his objection.

Mr. O'CONNELL. Wait until I give my objection. Now, you wait until you get my objection, Mr. Mancovitz.

Notary MANCOVITZ. You have made your objection, Mr. O'Connell?

Mr. O'CONNELL. You have got to comply with one or two things.

Notary MANCOVITZ. Have you made the objection?

Mr. O'CONNELL. No, I have not.

Notary MANCOVITZ. You have taken 10 minutes.

Mr. O'CONNELL. Don't be disrespectful and discourteous, because I am going to make the objection.

Notary MANCOVITZ. Go ahead.

Mr. O'CONNELL. All right. I want my objection noted to the fact that this witness is being called upon to answer questions about something that he says—in other testimony—he knew nothing at all about it because he was in another room, and he is being examined about what might have been; and I object to any questions framed that will put an answer into his mouth about a typical situation when he wasn't present at it, and I would ask the witness to be cautioned that he is to testify to only what he knows took place at a given time; and if he wasn't present, that he should say so.

Notary MANCOVITZ. You may note the objection. The witness is competent to know what he is talking about.

Q. Now, Mr. Burlen, you are chairman of this board, and you make these arrangements for these recounts?—A. Yes, sir.

Q. When a Democrat is put at one side and a Republican at the other, one counting and the other checking, and you arrange for two watchers for each candidate. Those are arrangements that you make personally, aren't they?—A. Yes, sir.

Mr. CALLAHAN (to Mr. O'Connell). Are you satisfied?

Mr. O'CONNELL. He may make arrangements, but he can't testify about their being carried out when he isn't present.

Q. That is true of each table, isn't it, Mr. Burlen?—A. Yes, sir.

Q. And I understand now, you made provisions so that Mr. Tague could have two watchers at each one of those tables?—A. Yes.

Q. If there weren't two watchers at each one of those tables for Mr. Tague, that was Mr. Tague's fault, wasn't it?

Mr. O'CONNELL. Now, just a minute. I am obliged to enter my objection.

Mr. CALLAHAN. All right; I will withdraw it.

Mr. O'CONNELL. All right.

Mr. CALLAHAN. Mr. Tague knows it is his fault.

Q. How many tables were being counted that day, Mr. Burlen?—A. I think one for each ward in the district.

Q. One for each ward, and at each one of those tables?—A. Yes, sir.

Q. At each one of those tables, they would take a precinct at a time?—A. Yes, sir.

Q. And if one precinct was being opened, was opened and being counted, the remaining precincts remained sealed—the boxes in the remaining precincts remained sealed, didn't they?—A. That is right.

Q. And the seals on those boxes would not be broken until they were brought to the tables to be counted? The checkers, I suppose, are there for the purpose of questioning certain ballots. Is that so?—A. Well, I suppose—

Q. Well, I will withdraw that. The checkers are there to watch the count. If there are some ballots that they think questionable they can object to them?

Mr. O'CONNELL. I object to this form of questioning, and I suggest the witness would get along better if you would simply ask him what are the checkers there for.

Mr. CALLAHAN. You can answer it. You can't tell me how to ask a question. The WITNESS. Yes.

Q. That is what they are there for?—A. Yes, sir.

Mr. O'CONNELL. Go to it.

Q. At those different recounts there were a great many questioned ballots. Is that so?—A. Quite a large number.

Mr. O'CONNELL. We will agree on that.

Q. What was done about those ballots that were questioned by the checkers?—A. Those ballots were brought before the board for the board's action.

Q. And the board would act on them after examination, in the presence of counsel for both sides? Is that so?—A. That was the—

Mr. O'CONNELL. What was that answer?

The WITNESS. I say "yes."

Q. And the board in no case decided any of those ballots without hearing arguments from counsel on both sides. That is so, isn't it?—A. I think so; yes.

Q. And that is the custom of your office, isn't it?—A. Yes, sir. It has always been the custom to hear the arguments of counsel on the matter.

Q. When those ballots were examined and arguments were advanced on them pro and con, they were decided by your board and then sent back to these ballot boxes. Is that so?—A. Yes.

Q. Now, at the recount of the primary, Mr. Burlen, was there any disorder at the recount at these various tables?

Mr. O'CONNELL. If he knows. Now, he wasn't present, and how in the world can he testify about them.

A. There was no disorder reported to me from people out there.

Q. The office where these ballots were taken, I might say for your information, Mr. Burlen, has been described here by Mr. O'Connell, or one of his associates, as the executive room. I do not know whether you call it the executive room or not, but I think—

Mr. O'CONNELL. Wasn't it "the executive" room?

Mr. CALLAHAN. No; you called it the executive room.

Q. And these questioned ballots now were taken and argued upon and decided in that executive room. That is where the desks of the different commissioners are?—A. There and in an inner room which we had.

Q. And in an inner room. Was there any disorder or commotion there at either the discussion or the deciding of those different ballots?—A. I did not see very much disorder. There were some disagreements.

Q. And that is natural when people are quarreling over ballots, I suppose. At any rate, that didn't interfere with your decision or the decision of the other commissioners, did it?

Mr. O'CONNELL. Again I object to this form of questioning.

A. No.

Notary MANCOVITZ. Note the objection.

Mr. O'CONNELL. And ask that my objection be noted.

Notary MANCOVITZ. I ordered it noted.

Q. Will you answer that question, please?—A. It did not interfere with our decision.

Q. Now, Mr. Burlen, at some time prior to the election, Mr. Tague filed either a petition—I think it was a petition—a petition to remove the names of certain voters in ward 5 and ward 6 didn't he?—A. He did.

Q. Now, have you that petition with you?—A. I have.

Q. Have you that petition Mr. Burlen?—A. Petition of October 22, 1918.

Q. Now, may I see that petition, please?—A. [Witness hands petition to counsel.]

Q. This is an official document, isn't it?—A. Yes, sir.

Q. That is kept in your office?—A. Yes.

Q. If we want to get it for an exhibit, we will have to get a certified copy, won't we?—A. Yes.

Q. That is, you do not care to leave this here?—A. I think that it might be left in the same way the ballots are, if you are going to want those ballots. You have numbered those.

Mr. CALLAHAN. All right. I will read this. I want to offer this in evidence. This is a letter dated Boston, October 22, 1918:

BOARD OF ELECTION COMMISSIONERS,

Boston, Mass.

GENTLEMEN: I, Peter F. Tague, being duly sworn, on oath complain that I have reason to believe and do believe that certain persons, to wit, those whose names and addresses are hereto annexed, have been illegally and incorrectly registered because said persons are not residents and were not residents at the places set forth as their place of residence on April 1, 1918, against their respective names, that the said persons enumerated in said lists have not complied with the registration law as required by statutes and laws of this Commonwealth, and that the said persons have no right to vote as residents of the places at which they are registered.

PETER F. TAGUE.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss.:*

Then personally appeared the above-named Peter F. Tague and on oath declared that the above statement by him is true to the best of his knowledge and belief, before me.

JOHN W. HEEDY, *Notary Public.*

This contains a list of names, which are not of much importance now.

Q. Now, to that petition or communication did you make some reply, Mr. Burlen?—A. On October 24 the board made the following reply——

Q. Will you read it?—A. (Reading:)

OCTOBER 24, 1918.

Hon. PETER F. TAGUE,

18 Tremont Street, Boston, Mass.

DEAR SIR: The board of election commissioners are ready to examine into the complaint filed by you against certain registered voters set forth in complaint filed with this office. The board have set 2.30 p. m. on this date as the time for said hearing.

Respectfully,

BOARD OF ELECTION COMMISSIONERS,
M. W. BURLEN, *Chairman.*

P. S.—We have notified Hon. Joseph F. O'Connell by telephone of said hearing.

OCTOBER 24, 1918.

Hon. JOSEPH F. O'CONNELL,

50 State Street, Boston, Mass.

DEAR SIR: The board of election commissioners are ready to examine into the complaint filed by the Hon. Peter F. Tague against certain registered voters set forth in complaint filed with this office. The board have set 2.30 p. m. on this date as the time for said hearing, as per notice already given you on telephone.

Respectfully,

BOARD OF ELECTION COMMISSIONERS,
M. W. BURLEN, *Chairman.*

Q. Now, what date had you set for that hearing?—A. The 24th of October.

Q. What was the hour, please?—A. At 2.30 p. m.

Q. What is the date of the letter, please?—A. October 24.

Mr. GOODWIN. The same day?

The WITNESS. Yes.

Q. I take it you sent two letters to Mr. O'Connell?—A. Sent one to Mr. Tague and one to Mr. O'Connell. First, telephoned to Mr. O'Connell.

Q. Telephoned to him?—A. Then sent the letter.

Q. Then sent the letter, and then sent the letter to Mr. Tague?—A. Yes, sir.

Q. And what was the date of the letter you sent to Mr. Tague?—A. The 24th.

Q. The 24th. Now, were those letters sent by messenger?—A. The letter—those letters were sent by Mr. Mahoney, one of our clerks.

Q. Did you receive a reply from either Mr. Tague or Mr. O'Connell?—A. I did.

Q. Now, may I see the reply?—A. [Witness hands letter to counsel.]

Mr. CALLAHAN. This is a reply from Mr. O'Connell. I will read this. This is from the law offices of Joseph F. O'Connell, James P. O'Connell, and Daniel T. O'Connell, 53 State Street, Boston, Mass.:

OCTOBER 24, 1918.

MELANCTHON W. BURLIN,

Chairman Board of Election Commissioners, City Hall, Boston, Mass.

DEAR SIR: Your notice as delivered by Mr. Mahoney at 2 o'clock to-day, following your telephone communication of 15 minutes before, is duly acknowledged. I note that you state that your board is willing to hear Mr. Tague at 2.30 to-day, but in the absence of Mr. Tague—whom I have not been able to reach on the phone—I am unable to state just when he will be ready to appear before you.

Personally I will be unable to do so because I am engaged this afternoon on an important matter that can not be put aside. As you know, the hearing before the ballot law commission is to be resumed to-morrow at 10 o'clock for the final argument, and each side is limited to one hour and a quarter, and I am in hopes we will be finished by 1 o'clock. I will appear before your board with Mr. Tague just as soon as we have finished there, and to the best of my belief we can be there at 2.30 to-morrow. Of course, you will appreciate that your notice was very brief, and it is only on account of this fact that we have not been able to avail ourselves of the appointment suggested by you.

Very truly, yours,

JOSEPH F. O'CONNELL.

Q. Now, Mr. Burlen, on the following day did Mr. O'Connell or Mr. Tague, or anybody representing Mr. Tague, appear before your board on this matter?—A. No, sir.

Q. From that time until election day, did either Mr. O'Connell or Mr. Tague, or anybody representing Mr. Tague, appear before your election board on this matter?—A. No, sir.

Q. Now, the statute—take the statute that covers this petition to remove the names of voters from the voting list.—A. I think it is section 52 of chapter 825 of the acts of 1913. I think that is the fact, if I am not mistaken.

Q. Section— A. 52, chapter 825 of the acts of 1913.

Q. Well, I want to offer this statute. Chapter 81, General Acts, an act relative to— A. That has been amended.

Mr. CALLAHAN. General Acts of 1916, an act relative to the registration of voters. I will read this section, 52:

"If a registered voter complains to the registrars or election commissioners, in writing, under oath in a city 14 days at least, or in a town 4 days at least, before a primary or election or town meeting, that the complainant has reason to believe and does believe that a certain person by him therein named has been illegally or incorrectly registered, and setting forth the reasons for such belief, the registrars or election commissioners shall examine into such complaint, and if satisfied that there is sufficient ground therefor, they shall summon the person complained of to appear before them at a certain place and time before the next primary or election or town meeting to answer to the matters set forth in the complaint, and the substance of the complaint and as copy of this and the following section shall be set forth in the summons.

Service of the summons shall be made by an officer qualified to serve civil or criminal process, not more than 14 nor less than 2 days before the day named for appearance, by delivering in hand a copy of the summons to the

person therein summoned, or by leaving it at the place of alleged illegal or incorrect registration, if no later residence of such person appears on the register, and in that event at such later residence if the officer finds that such person resides at such place or later resides, as the case may be, or if he was formerly there and has changed his residence, then by leaving it at the place to which he has moved, if it is within the officer's jurisdiction and can be ascertained by inquiry at such place or later residence; but if the officer can not make personal service and can not ascertain the residence of the person complained of, the copy of the summons shall be left at such person's last residence, if any, known to the officer within his jurisdiction; and the officer shall return the summons to the registrars or election commissioners before the day named for appearance, with the certificate of his doings indorsed thereon."

Q. Now, it says that when this petition is filed, the registrars or election commissioners shall examine into such complaints. Now, except for the filing of that petition, did Mr. Tague or his counsel, or anybody representing Mr. Tague, ever make a complaint about those names or those voters' names?—A. No, sir.

Q. What did your board do, Mr. Burlen, about those names given in that petition by Mr. Tague?

Mr. O'CONNELL. If anything.

A. The board took the names of the persons complained of and had their clerks look on the police list to see if those men were police listed, and if they were supplementally listed we made notation of it on the sheet which we have here. There were some 203 names, and the board found that those men were properly on the voting list, were on the voting lists of the preceding year, had been returned by the police as voters of the year, of that year, and also that some of those names were supplementally registered, the evidence of the supplementary registering being in our office, and an examination of their supplementary registration by the police. The board found that—

Mr. O'CONNELL. Of course, I object to this question, because he wasn't asked what the board found. He was asked what the board did.

Q. I will ask this—

Mr. O'CONNELL. Any conclusions not in accordance with the question and not responsive to the question—

Q. You may tell us what the board did, and then you may tell us how you reached that decision.

Mr. O'CONNELL. I ask that my objection be noted.

Notary MANCOVITZ. Note Mr. O'Connell's objection.

The WITNESS. The board found the persons complained of were either on the voting list of 1917 and carried to the 1918 list by the return of the listing board, which showed them to be April 1 residents, or they appeared before the board and were supplementally listed and registered according to law.

Mr. O'CONNELL. In other words, the board did something they were not asked to do. We were complaining about illegal registration. They simply found what we said was so. They were registered.

Mr. CALLAHAN. You will find, as you take every step, you did not go quite far enough.

Q. Now, this listing board, Mr. Burlen, is composed of whom?—A. At that time, Commissioner O'Meara.

Q. The police commissioner of Boston?—A. The police commissioner of Boston, and I think John J. Twomey, the Democratic chairman of the election board.

Q. Now, the election board, as I understand it, has nothing to do with the listing of voters on the 1st of April?—A. No, sir.

Q. That is a duty that is confined to the police of the city of Boston, isn't it?—A. To the listing board.

Q. The listing board?—A. Yes, sir.

Q. And their agency is the police department?—A. Yes, sir.

Q. So if a person is listed on the 1st of April, they are listed entirely by the police of Boston?—A. Yes.

Q. That is an agency outside of your control?—A. Yes, sir.

Q. And in making your decision and reaching your decision, you took advantage of everything in the way of official records that were before your department?—A. We did.

Q. Now, Mr. Burlen, at some time did the secretary of state, or somebody from his office, send a list of names to your office?—A. He did. We received

from the office of the secretary of state a circular dated Boston, July 1, 1918, which reads as follows:

To the Board of Registrars of Voters:

In order that application blanks for registration as absent voters may be sent to registered voters under the provisions of Chapter 293, General Acts of 1918, entitled "An act to provide for voting by qualified voters in military and naval service of the United States," I am sending herewith the first of several lists of persons reported to me by the adjutant general as being in said service from your city or town. Please cause to be checked on these lists as received those names which appear in your voting lists as qualified voters and return each list as soon as checked. Where the voting address is missing or changed, please insert or correct, as the case may be.

Very respectfully, yours,

ALBERT P. LANGTRY,
Secretary of the Commonwealth.

Q. Now, with that communication, as I understand it, they sent a list of names?—A. We received from time to time several lists of names, typewritten lists of names.

Q. And the other lists of names simply followed that communication; is that so? He said from time to time?—A. From time to time we got them.

Q. Now, that list of names or the lists of names were not confined to this one congressional district, were they?—A. No; we had some of those names out of town.

Q. But they were names of young men who were in the Government service, names of young men living all over Boston, who were in the Government service. Isn't that so?—A. I can only say from casually glancing at them that they were from different sections of Boston.

Q. Different sections of Boston, exactly. And it was your duty, I take it, in response to that letter, simply to designate or to show to the secretary of the Commonwealth or somebody in his office which one of those men, or which ones of them, or which men were actual voters in the city of Boston?—A. We would identify those names as names of registered voters.

Q. That is all you were supposed to do—simply identify them as voters in the city of Boston. You were asked by the secretary of state to do nothing else, were you?—A. No, sir.

Q. And so far as you know, you do not recall any statute that requires you to do anything else?—A. I do not know of any.

Q. No. And the purpose of that was to accommodate the secretary of state's office in compiling a list of those men who were in the service and wanted to vote outside the Commonwealth?—A. That is what the circular seemed to indicate.

Q. And there was nothing on those lists, Mr. Burlen, on any of those lists, that would indicate to you that any of those men were in that particular place? That is, you could not tell from those lists only, and you could not tell whether a man was in Boston, or Framingham, or Camp Devens, or New York City, or France, or any other place in the world, could you?—A. All those lists contained was the man's name and his residence.

Q. The man's name and the residence in Boston?—A. Residence in Boston.

Q. Exactly. And there was no other description of that man?—A. No.

Q. And nothing else that would indicate to your board where he was?—A. No.

Notary MANCOVITZ. We will adjourn now for luncheon, until 2 o'clock.

AFTERNOON SESSION.

MELANCTHON W. BURLLEN, direct examination resumed:

Notary MANCOVITZ. Proceed, gentlemen.

By Mr. CALLAHAN:

Q. Now, Mr. Burlen, just one thing, then I will be through. In your description of the officers at the voting precinct this morning, I think we forgot to find out just how they were divided up. Will you please tell us the officers at a precinct on a primary day and election day?—A. At the entrance of the polls, at the voting lists as you go in, is an election officer, either a Republican or a Democrat, at that voting list, and if it is a Democrat at the voting list, there

would be a Republican in at the ballots; and then, on the other side, after the man votes and goes out, there will be a Democrat at the ballot box and a Republican at the check list.

Q. Then there is a warden and clerk?—A. A warden and clerk, one of each political party.

Q. If the warden is a Democrat, the clerk is a Republican?—A. Yes.

Q. And if the warden is a Republican, the clerk is a Democrat?—A. Yes.

Q. And the other four officers are called inspectors?—A. Inspectors.

Mr. HARRINGTON. I think it says "majority parties," doesn't it, instead of Republican and Democrat?

The WITNESS. The principal political parties.

Mr. CALLAHAN. We are stating it as a fact. You may inquire.

Cross-examination by Mr. O'CONNELL:

Q. This election commission is really a political body, isn't it, Mr. Burlen?

Mr. CALLAHAN. You might explain that.

A. The election commissioners are provided for by statute law, which provides that two of them shall be members of the principal political party.

Q. Appointed by the mayor?—A. Appointed by the mayor.

Q. If the mayor is a Democrat, he appoints Democratic men, or those who have favored his election?

Mr. CALLAHAN. No.

A. I can't answer what the mayor does.

Q. Even though they are Republicans. For instance, the last mayor, being a Democrat, appointed you as Republican after 19 years because you had supported him on election day. That is true. That is true, is it not?

Notary MANCOVITZ. You needn't answer that question.

Mr. CALLAHAN. Now, did you say the last mayor? To whom do you refer? To whom do you refer?

Q. Do you want to answer that question?

Mr. CALLAHAN. Now, wait a while. Make that clear. Do you mean the present mayor or the last mayor, Mr. Curley?

Mr. O'CONNELL. The witness knows what I am talking about.

Mr. CALLAHAN. Well, you make it clear. Whom do you mean?

Mr. O'CONNELL. Don't tell me what I am going to do.

Mr. CALLAHAN. Do you mean Mr. Curley?

Mr. O'CONNELL. Don't be getting rough.

The WITNESS. I will answer the question.

Mr. CALLAHAN. Go ahead.

Mr. O'CONNELL. Go ahead.

The WITNESS. In my position as election commissioner I took no part whatsoever in the election of the mayor, and don't take any part.

Q. Didn't your boss tell you how to vote?

Mr. CALLAHAN. Wait.

Notary MANCOVITZ. You needn't answer that question.

Mr. CALLAHAN. That is insulting.

(Extended colloquy.)

Q. You, Mr. Burlen, were appointed by Mayor Peters, weren't you, as chairman of the board?—A. Yes, sir.

Q. Now, you had supported Mr. Peters in the last election?—A. I took no part, as I said, in the election of any mayors of Boston any time I have been a member of the election board.

Q. Messrs. Finigan and Wasserman of your board were both appointed by the present mayor?—A. Yes, sir.

Q. And both of them had supported him, had they not?—A. I do not—I have no knowledge.

Q. No knowledge? Let me ask you this: When did you find out—at the hearing before the ballot law commission, Mr. Burlen, you testified that you had no official knowledge that there was a war in which this country was engaged, didn't you?—A. I don't remember.

Q. Don't you remember the hearing before the ballot law commission last fall?—A. Yes.

Q. What?—A. Yes.

Q. Don't you remember my asking you about that fact?—A. No; I don't.

Q. Don't you remember my asking you concerning whether or not any effort had been made by the ballot law commissions of Boston to make a list or to protect the list of the voters in Boston by finding out how many of the voters

had gone to war?—A. I think that you mean to ask me the question if the board of election commissioners have done anything.

Q. Yes.—A. You said "ballot law commission," and I am willing to frame your question for you.

Q. Oh, well, thank you for that suggestion. Do you recall my examining you with reference to the—A. Yes.

Q. (Continuing.) Election commission of Boston and what efforts they had made?—A. Yes.

Q. To protect the lists of those voters that were to be used by checking off the lists of names of the soldiers who had gone to the front or gone away from Boston?—A. I think you did make some inquiries along that line.

Q. Do you recall, in pursuit of that examination, that I asked you whether or not you knew the war was on, and you stated to me that you didn't know officially that there was a war on last summer?—A. Well, I think if I stated it at that I must have had some reason for stating so.

Q. You have found out since, have you, that there was a war?—A. Oh, yes.

Q. When did you find out that there was a war?

Mr. CALLAHAN. I object to that.

A. I can't tell the exact date.

Q. You can't tell the exact date?—A. No.

Q. Did you find that out since Mr. Boynton testified here two or three weeks ago that he had sent you a list of soldiers and sailors, citizens of Boston, who had been summoned to the colors?—A. Mr. Boynton sent us a list some time in July of soldiers and sailors, as I read from this circular, that had been summoned, with their addresses, asking us to make the notations on the side of those lists whether those men were registered voters or not. We made those notations and sent them back to him. That is all we did with the lists.

Q. So, when you testified last fall that you had no official notice, as a matter of fact, you had, some three months before that, received from the secretary of the Commonwealth a list of those who had been called to war, hadn't you?—A. Oh, yes; we received the list.

Mr. CALLAHAN. Called into the service?

Mr. O'CONNELL. Now, wait. I am examining this witness.

Mr. CALLAHAN. We did not have much war over here. These names embraced all the names of those persons called into the service.

Mr. O'CONNELL. Exactly.

Mr. CALLAHAN. You know we had fellows in the quartermaster's and over in the Navy Yard.

Mr. O'CONNELL. You are not testifying, please, and won't you let me proceed?

Mr. CALLAHAN. I know; but I want you to do it right.

Mr. O'CONNELL. Mr. Notary, I ask you to tell Mr. Callahan to allow me to proceed.

Notary MANCOVITZ. Mr. Callahan, you will enter your objection and let Mr. O'Connell proceed; allow him to proceed.

Mr. CALLAHAN. I am not stopping him.

The WITNESS. Mr. O'Connell, all I can say is that we received from the secretary of the Commonwealth under date of July 1, 1918, a circular letter addressed to the registrar of voters:

"In order that the application blanks for registration as absent voters may be sent to registered voters under the provisions of chapter 293, general acts of 1918, entitled 'An act to provide for voting by qualified voters in the military and naval service of the United States,' I am sending herewith the first of several lists of persons reported to me by the adjutant general as being in said service from your city or town. Please cause to be checked upon these lists as received those names which appear upon your voting lists as qualified voters and return lists as soon as checked. Where the voting address is missing or changed, please insert or correct as the case may be."

We complied with that request—we received the list from the secretary of state and complied with the request, and if I made a statement that I did not get those lists, I made a statement in error.

Q. And when you got those lists, you made no effort to check off the voting lists of the city of Boston to that effect or in such a way that there would be a designation made of those who had been called into the Army and Navy?—A. We complied—

Q. Did you?—A. (continuing). With the request of the secretary of the Commonwealth.

Q. I know; but you had the information sent to you which gave you the name of every man who has been called as a soldier and sailor. That is right, isn't it, in Boston?—A. We received that list that he sent us.

Q. And when you had that list in your office, you had ample time to check off each name that was on the voting list, didn't you?—A. No; we did not have ample time. We had——

Q. You had to go to the voting list in order to check them, didn't you?—A. Yes, sir.

Q. And when you had the voting lists in front of you checking them off, why couldn't you have checked on the voting lists those names?

Mr. CALLAHAN. Why should he?

Mr. O'CONNELL. Wait a minute, please. Congress will say why he should have, and the citizens of Boston will say why he should have.

Q. You had that information given to you, didn't you?—A. Yes, sir.

Q. You also knew that there was a law that every man in the Army or Navy had to wear his uniform during the war, didn't you?—A. Well, I am not conversant with war regulations, but if we say so, I am willing to accept your statement.

Q. The fact remains that, although that information was given to you, your board did not avail itself of that information by checking it off on the lists, so that the election of officers who would have the lists of voters on election day would be aware of whether a man had been in the Army or Navy?—A. The fact was we didn't check them off on the books; no, sir.

Q. Exactly. All right. If that had been done, the names of soldiers and sailors who were voted on wouldn't have been voted on?

Mr. CALLAHAN. Now, wait.

Q. If the election officers in the performance of their duty would recognize the information that you would have conveyed to them?

Mr. CALLAHAN. Now, wait; I object.

Notary MANCOVITZ. That question calls for a conclusion and opinion.

Mr. CALLAHAN. You needn't answer that.

Notary MANCOVITZ. It isn't a fact.

Mr. CALLAHAN. We don't want any suppositions.

Q. Please answer it.—A. I can't answer that question myself.

Q. Had your board given the information which you had received from the secretary of state to the election officers it would have been possible for the election officers to have prevented men coming to the polls and voting on the names of the absent soldiers and sailors?

Mr. CALLAHAN. Now, wait.

Q. (Continuing.) Wouldn't it?

Mr. CALLAHAN. You needn't answer that.

Notary MANCOVITZ. Of course, it is opinion. It isn't a question of fact.

Mr. CALLAHAN. You needn't answer that.

Q. Don't you want to answer that question?—A. I can't answer it.

Q. You can't answer it?—A. No.

Mr. CALLAHAN. That is a thing to be argued.

Mr. O'CONNELL. I do not think it needs much argument. It is very patent.

Mr. CALLAHAN. Whether it needs it or not, you will argue it; so what is the odds?

Q. At the examination at the statehouse before the ballot-law commission, when you were on the stand for two or three days and I was endeavoring to find out about the manner in which the voting lists had been protected, you did not give us any information about having received that list from the secretary of state, did you?—A. I think I did. I think my answer was that——

Q. Will you reflect for a moment?—A. I think my answer was we were not by law required to note those names on the voting lists at that time.

Q. Now, I will ask you to reflect again.

Mr. CALLAHAN. Now, he has reflected once.

Mr. O'CONNELL. I am asking him to do it again.

Mr. CALLAHAN. He doesn't have to do it again.

Mr. O'CONNELL. If he doesn't want it, let him say so.

Q. I will ask you to reflect again and see on reflection if you ever made any statement at any time at that hearing in reference to having received a list from the secretary of the Commonwealth?—A. I think I did make the statement, and I said that we were not required under the statute to make any notation on the voting list.

Q. Your board isn't under civil service; that is, the employees of it?—A. No, sir.

Q. And it is the only board left in the city of Boston where political office, political appointments, are made that are not subject to civil service?

Mr. CALLAHAN. If he knows that. That isn't so, but——

A. I think pretty nearly so, Mr. O'Connell. I am not positively sure about all departments.

Mr. CALLAHAN. How about the board of health? You are a smart fellow. You know all about it.

(Extended colloquy.)

Q. So that these men who are appointed, these deputies that you spoke about, are appointed as a reward for political activity by each of the various parties——

Mr. CALLAHAN. Wait.

Q. (Continuing.) Names are submitted to your board by the mayor and you appoint them after the mayor tells you?—A. I can't agree to that statement at all.

Q. The appointment in your office comes, as a matter of fact, from the mayor?—A. The board appoints the officers in our department. The mayor has to approve them.

Q. The mayor approves them?—A. Yes.

Q. And who recommends them to your board?—A. Why, applications are made in a great many cases.

Q. But whose recommendation is it that carries appointments?—A. The board's—decides on the qualifications of the appointees in our office.

Q. I say, whose recommendation is it that carries with the board?—A. The board——

Q. With the board?—A. The board decides upon appointments.

Q. The board takes it orders——A. From no one.

Q. In the appointment of the precinct officers you get your recommendations and suggestions from the ward committees, do you not?—A. In quite a number of cases, yes; but fully 85 per cent of our election officers are appointed from year to year. In vacancies we do request that the ward committees make suggestions, and we go through those suggestions and have applications made, and they are appointed.

Q. Inasmuch as you have been on the board 19 years, I think you can also testify to the fact that when these original appointments were made they were made on the recommendation of the two ward committees, the two city committees, rather?—A. A great many of them have been serving for some time. Some of them for 25 or 30 years before the present board went into effect.

Q. In other words, purely partisan appointments, the Democratic ward committee appointing—suggesting Democrats and the Republican ward committee suggesting Republicans?—A. We do that to get the standing of the political affiliations of the election officers. We do not always appoint their suggestions.

Q. But where, in a ward like ward 5, where the ward committee of both the Republican Party and the Democratic Party is controlled by one organization——

Mr. CALLAHAN. Now, wait.

Q. (Continuing.) You take your orders, as a matter of fact, from Mr. Lomasney's club?

Mr. CALLAHAN. Now, wait.

The WITNESS. I want to answer that question.

Mr. CALLAHAN. I will let you answer the part where you take your orders from Mr. Lomasney. Of course, you can't answer the question that both parties are controlled by one organization.

Mr. O'CONNELL. Well, you better answer the whole question.

Mr. CALLAHAN. You asked a question about Mr. Lomasney and he will answer it.

Mr. O'CONNELL. Go ahead and answer it, Mr. Burlen.

Mr. CALLAHAN. If you will separate it.

The WITNESS. Mr. Lomasney has never suggested a Republican officer or sent a recommendation in to our board, as far as I know.

Q. Well, the Republican ward committee, which is his committee, make the recommendations, don't they?—A. I have received suggestions from Mr. Hormel, chairman of the Republican committee, quite a number of times.

Mr. CALLAHAN. The Republican city committee?

The WITNESS. The Republican city committee.

Q. In ward 5?—A. In ward 5.

Q. And John I. Fitzgerald, also, I presume, has given——A. Never has made a recommendation for any election officer in ward 5.

Q. Isn't he the chairman of the ward committee? —A. I do not know who is chairman of the Democratic ward committee.

Q. Who handles the Democratic ward committee?—A. I do not know.

Q. What?—A. I do not know who handles the Democratic ward committee.

Q. If there is to be a Democrat to be appointed down there, who does make the recommendations to your board?—A. In my board the Democratic member makes the Democratic suggestion to him.

Q. Has the Democratic member of the board told you who carries the suggestion from Lomasney?—A. Never asked him.

Q. There isn't any Democratic member of the board now that was there two years ago, is there?—A. Two years ago? I think Mr. Murphy was there two years ago.

Q. How long has he been there? This board as it is constituted now is made up of recent appointments, outside of yourself?—A. Let me see, Mr. ——

Q. Mr. Wasserman——A. Mr. Murphy took the place of Mr. Martin, who died, I think, and Mr. Wasserman took the place of Mr. Seiberlich.

Q. Mr. Murphy is in there less than three years; that is true? Wasn't Mr. Murphy suggested by Mr. Lomasney as a member of the board? Wasn't he Lomasney's man?—A. I do not know nothing about that.

Q. You are in pretty close touch with Mr. Lomasney, aren't you?—A. I do not know what you mean by "close touch." If you want to know if I have known Mr. Lomasney, I have known him almost since he was a boy, as I have known Mr. Tague almost since he was a boy.

Mr. CALLAHAN. And have known Mr. O'Connell a long time, haven't you, too?

The WITNESS. Oh, yes; I have known him for 25 years.

Mr. CALLAHAN. He gave you a very high recommendation to Congress one time. Read it for him some time.

Mr. O'CONNELL. Let the judge read it.

Q. How intimate are you with Mr. Lomasney?—A. Why, if Mr. Lomasney comes into the office, as any member of a political party comes in, and asks for any information he gets it.

Q. Now, at the primary recount you were in communication with Mr. Lomasney, were you not?—A. No, sir.

Q. Did you write him any letters?—A. No, sir.

Q. Send him any letters?—A. During the recount?

Q. Yes—the primary recount, now.—A. I do not remember any. I do not remember any.

Q. Will you say you did not?—A. I do not remember.

Q. Will you say you did not?—A. I think I could say yes. I did not, as far as I can remember.

Q. At the ballot law commission didn't you say you didn't?—A. I think I did. If my testimony is that way, why, it stands.

Mr. CALLAHAN. I do not know what you are leading up to, but I hope we get down to the issue.

Notary MANCOVITZ. A fishing expedition.

The WITNESS. I will say this, if Mr. Lomasney came into my office at the time of the recount and wanted some information, I would give it to him the same way I would give it to you or Mr. Tague.

Q. Well, I will ask you to-morrow morning to identify some papers——A. Yes.

Q. (Continuing.) Which may possibly call upon you to retract what you are saying.—A. I shall be pleased to.

Q. Now, you were called upon this morning to testify in regard to some booths. How many iron booths, such as you described, are there within the city of Boston?—A. We do not use to-day, I do not think, more than two or three iron booths. One is used at the West End, the corner of Lowell and Willard, and one at the Charter Street lot of the paving department. That is two. I think that is all. I can't remember. If I had my book here, I could tell. I think we only use two or three iron booths.

Q. So the plan of the iron booth you showed us to-day only referred to those two?—A. We have also——

Mr. CALLAHAN. Referred to booths.

The WITNESS (continuing). Also wooden booths of the same arrangement on the inside as the iron booths.

Q. Please answer my question, and we will see about the rest of it—A. Yes.

Q. Now, the iron booth has two entrances?—A. Yes.

Q. There is one entrance and one exit?—A. Yes.

Q. Do you mean to tell this congressional committee that anybody could stand inside the iron booth at the exit in that particular precinct in ward 5 that you speak about and see how the voter—see whether the voter deposited his ballot or not?—A. I mean to say that a voter inside the voting booth at the place where people stand on election day watching the election can see the ballots, and I qualified my statement this morning by saying that I thought they might see the act of a man putting a ballot in the box.

Q. I am asking you not about anything else but this iron booth.—A. In the iron booth. I made that statement on the iron booth.

Q. Is there any place in the iron booth outside of the entrance where the man receives his ballot where anybody can stand?—A. Oh, yes.

Q. Is there a place where anybody is allowed to stand?—A. Oh, yes; certainly.

Q. Where is it?—A. In the entrance, as you go in.

Q. I said, aside from the entrance of it.—A. Outside of the booth or in the booth?

Q. Inside of the booth.—A. Oh, yes; plenty of room.

Q. Where—inside of the iron booth?—A. You have that diagram I showed you. Right in this place here [indicating]. Here is the sidewalk and the entrance.

Q. Yes.—A. In this space here [indicating]. This is the rail.

Q. Yes.—A. The police officer stands in there, and people having voting lists, check lists, stand there; and a man can see from here [indicating].

Q. In other words, you are pointing—will you mark that "A"?—A. This line, "A."

Q. You pointed right in here [indicating]. What is this thing?—A. This [indicating] was a place where people are allowed to stand from outside.

Q. Now, then, mark over here—this is "B."—A. Yes.

Q. That is the exit feature of it. Now, between "A" and "B" are the various officials connected with the election that goes on in that precinct sitting in that inclosure or standing?—A. Yes.

Q. There are two men over here that you have designated. Here is this table here [indicating].—A. Yes.

Q. And another table for other officers, and another one here [indicating], and here [indicating] is where the booth is, isn't it?—A. No.

Q. Where the election?—A. Here is where the—there is a table there [indicating].

Q. That is a table for the man?—A. With the voting lists, and here is the ballot box [indicating].

Q. A man comes out here and nobody allowed to stand, in other words, except at the entrance?—A. No.

Q. So a man has to come around here [indicating]?—A. He can look over here and see that.

Q. He has got to look through these various people?—A. I said he could see the man.

Q. There is a wire screen?—A. That is dropped at every election.

Q. Well, wait a minute. Have you been in this booth down at ward 5?—A. Not very lately.

Q. No? Do you know whether there is a wire screen there or not?—A. I do not think the wire screen is there on election. If it is, it is there against any orders from the board.

Q. When those iron booths were built and first used, there was an iron screen that went all around?—A. Never. Always here [indicating], only.

Q. At the entrance?—A. It is caught in the top of the voting booth. It is dropped down.

Mr. CALLAHAN. A fine wire screen?

Mr. O'CONNELL. About an inch wide?

Mr. CALLAHAN. About one-hundredth of an inch thick?

Mr. O'CONNELL. Will you please let him do the testifying?

The WITNESS. The wire is about that size [indicating] half way down the booth.

Mr. O'CONNELL. When you get through, Mr. Callahan, I will resume.

Mr. CALLAHAN. Go ahead; go ahead.

Mr. O'CONNELL. All right.

The WITNESS. I think I qualified my statement. There might be some people in the way, and I said the man could be seen in the act of putting his ballot in.

Q. Now, how far is it from, say, the middle of that area "A" to this place here [indicating] in that iron booth?—A. I have to estimate it as well as I can. That is supposed to be about 6 by 7. It may be 5. The full length of that booth is 25 or 7 feet. This room might be 12 feet square. That would be 12 and 6 is 18. It might be that. It might be 2 feet less than that.

Q. In that area of 6 feet square you have described the place where, according to law, six men at least——

Mr. CALLAHAN. Doesn't say 6 feet square.

The WITNESS. Twelve feet square.

Q. Make it 12 feet square. In that area of 12 feet square——A. It is more than that, by the way. About 9 feet from there to there [indicating], I should say.

Q. Now, in that area which you have pointed out here, in which the election officials are located in that iron booth, how far is it from that place where you have marked "A" to the spot marked "B" where the ballots are deposited?—A. I should say somewhere between 9 and 12 feet. Depends upon——

Q. And in there are crowded the six or seven tables?—A. No; not seven tables, only three; only three tables.

Q. Three tables. And what are these other things you have marked?—A. The ballots are on the tables. The voting box is on a stool, and here [indicating] is the voting lists on the table, with an upright tray.

Q. Two tables? This [indicating] is a table, and there [indicating] is a table?—A. Only three tables.

Q. Marked "tables"?—A. I have marked them here [indicating].

Q. That [indicating] is a table, and that [indicating] is a table?—A. I do not think there are any more than three or four tables. I know not more than four.

Q. That [indicating] is a stove. Do the policemen stand inside there?—A. No. Outside. The policemen outside.

Q. Four tables, a stove, and two ballot boxes?—A. Not four tables.

Q. You have two marked, and pointed out two others.—A. I drew that from plans that were made quite a few years ago. They had four tables there at that time. We have economized now and put three in.

Q. When did you economize on that booth?—A. I can't tell you.

Q. Of course, it is perfectly possible for any man standing between this place you have marked "A" and the ballot box to obstruct the view of the man looking from the point "A" and what is going on in the ballot box?—A. As I stated this morning, the only——

Q. Can't you answer that yes or no?—A. It might be possible for these two men to stand up and a man not be able to see a man putting the ballot in the box.

Q. As a matter of fact, if the election officials did stand up—and they do stand up, do they not?—A. Yes.

Q. When they are handling that box, then the man looking from over there [indicating] could not see, could he?—A. No; if he was in his way.

Q. He would have to be in his way if he was performing his duty?—A. Sometimes they sit down.

Q. Could a man—didn't you state a minute ago that the ballot box stands on a stand?—A. A little, low stool.

Q. How high is the ballot box?—A. I should say the ballot box might be three feet and a half or four altogether, I guess. That is a fair estimate.

Q. On top of the stand, would make it standing about 5 feet altogether?—A. I will answer it this way: I think the election commissioners stand more than they sit down.

Q. In fact, if they sat down, they would be sitting below the top of the box where the crank is?—A. Some of them do that—some very old fellows.

Q. Of course, the warden and clerk, if they desire to obstruct, could easily stand in the way, and a man standing out here, as you have indicated, wouldn't have a chance to see what took place at the ballot box?—A. I would rather answer that question in this way: If the warden and clerk stand up in the middle of that place, they could obstruct the sight of a man on the outside from seeing that box work.

Q. There is no opportunity in that iron booth of anybody standing around here [indicating], near where the ballot is deposited?—A. Oh, no; not—about 9 feet from it, as near as I can say.

Q. With the wooden booth?—A. Yes.

Q. And other booths—the box is deposited—the box in which the ballots are deposited is placed near the rail, where everybody can see?—A. Yes, yes; and in the second diagram that I have drawn the box is right within 2 feet of the rail; have the same way to go in and out.

Q. In this precinct where the iron booth was used, that is the precinct where they were using the emergency ballot box?—A. Yes, sir.

Q. Until the police called their attention to it, isn't it?—A. If that was testified to—I do not remember if that was testified to. All right; I do not remember the precinct. If that was the precinct—

Q. Where is the location of the precinct?—A. Lowell and Willard Streets, where the iron booth was.

Q. Exactly. That is what I want.—A. I do not know anything about the emergency box.

Q. Nobody in the street can see what is going on inside of that booth?—A. No; I do not think they can.

Q. Either in that precinct or any other precinct?—A. Well, no; not in the street.

Q. So, when you said in your answer to Mr. Callahan anybody in the street could see it, you did not mean that?—A. I do not think I testified that.

Q. If you did say it, it isn't right?—A. I did not mean to testify it, because the doors are closed.

Q. Anybody who was a watcher and who was driven out on the street couldn't see what was going on in the booth, could they?—A. No.

Notary MANCOVITZ. Are there any windows?

The WITNESS. No windows a man can look in.

Mr. O'CONNELL. It isn't up to you to ask questions.

The WITNESS (continuing). Inside the room and see what is going on in there.

Q. Now, in answer to Mr. Callahan, you said all actions in reference to what was done in reference to the counting of ballots, whatever action was taken by the board, and all things in connection with it, were taken in the presence of the attorneys. You did not mean that, did you?—A. I think generally; yes; we tried to have all those matters considered by the attorneys in our large office or in the little room.

Q. As a matter of fact, isn't it true that the board made all its considerations and decisions in a private room, with the attorneys outside?—A. The board called the counsel in and made a decision.

Q. Can't you answer my question?—A. No; they made decisions there in their presence.

Q. Why did you always insist on having the attorneys leave the room?

Mr. CALLAHAN. Now, what do you have reference to—the primary or the election?

Mr. O'CONNELL. Talking about the primary.

The WITNESS. I can't answer, except that the board were taking up the matter of the ballots, and we called you in there to notify you of our decisions.

Q. Didn't you, as a matter of fact, begin a new policy last fall, and against our protest, of going into executive session over every ballot that I questioned?—A. No.

Q. Didn't you go into executive session and make your decisions in executive session, and then call us in and announce your decision?—A. I do not think so in every case; may have been some few cases.

Q. Didn't you, as a matter of fact, start right in after the third ballot that was disputed and then decide every disputed ballot in executive session, and then call us in and notify us of the result of it?—A. No. Mr. O'Connell, you sat down at the table there and talked with the board about those ballots. You sat down there and talked with the board about our decisions on those ballots.

Q. And then after that, didn't you dismiss Mr. Miller and myself from the room against our protest, and go into session?—A. I do not remember that at all.

Q. You don't recall that?—A. I don't recall that.

Q. Do you recall my protesting about the executive sessions?—A. I do not recall that at all.

Q. Wasn't it as the result of our protests and the scandal connected with it that when it came to the recount on election day you changed back to the other custom?—A. I know of no scandal in connection with the recount in any way, shape, or manner.

Q. Was there anything except scandal connected with it?—A. We did not make it.

Q. As a matter of fact, isn't it true that whenever ballots were disputed Mr. Miller and myself had to leave the room, and that during those disputes Mr. Murphy would leave the room and go into consultation with some of the lieutenants of Mr. John F. Fitzgerald and then come back, and the decisions would then be made?—A. Why don't you call Mr. Murphy and have him testify to that?

Q. I am asking you.—A. No; I do not know that.

Q. You know Mr. Murphy used to leave the room frequently?—A. I do not know anything about Mr. Murphy's actions.

Q. You were there?—A. Yes.

Q. Did you see him leave the room?—A. I do not know.

Q. Did he leave the room?—A. I do not know.

Q. Did he leave the room?—A. I do not know.

Q. Could he have left the room without you knowing it?—A. He might.

Q. It was a small room, about 10 by 12.—A. He might. I was a pretty busy man.

Q. Do you recall you kept going into executive session and delaying the proceedings, until finally Mr. Miller got disgusted with you and left the proceedings, Mr. Miller being attorney for John F. Fitzgerald?—A. Whatever I testified to, Mr. O'Connell, stands. I have no change to make in my former testimony.

Q. I am not asking you to change any former testimony. I am asking you a question about this.—A. We had numerous executive sessions, but none at the time when the ballots were being counted.

Q. Isn't it true you were accused by the attorney for Mr. Fitzgerald at that time of not knowing your own mind for a minute, and that you were receiving suggestions from elsewhere?—A. I did not hear that accusation at all.

Q. You say the police were not under your control. Isn't it known to you that the police down in ward 5, as far as the elections are concerned, are under the control or domination of Mr. Martin Lomasney?—A. I can't answer that question, Mr. O'Connell.

Q. Why can't you answer?—A. I do not know.

Q. I don't blame you for laughing.—A. I don't know. I don't know. Ask Mr. Lomasney.

Q. Isn't it a matter of common knowledge?—A. Ask Mr. Lomasney. I don't know. He will tell you.

Mr. CALLAHAN. Curiously enough, he never asked him that.

Q. I am asking you.—A. I do not know.

Q. You are the witness.—A. I do not know. Ask the man who would know.

Q. You ask me to ask Mr. Lomasney. Do you think Mr. Lomasney would admit it?—A. I do not know. Ask him. He will tell you the truth.

Q. You said you took action on the list of illegal voters that were submitted to you by Mr. Tague on October 22. Did you call any of those witnesses—voters—before you?—A. I testified this morning—

Q. Won't you please answer my question?—A. No; we did not.

Q. Did not call anybody?—A. No.

Q. And did you call any of the people in the houses in which they were supposed to be registered before you?—A. No, sir.

Q. Did you call any witnesses of any kind?—A. No.

Q. You had full power to call them if you wished, didn't you?—A. We had 203 complaints that were filed with our board on the 22d day of October.

Q. Yes.—A. On the 24th of October we notified you we were ready to proceed.

Q. Give us 15 minutes.—A. You said you could not come.

Q. Wait a minute.—A. I am testifying now; please let me testify.

Q. You are not answering the question.—A. I am trying to answer it in my own way. Let me answer it in my own way.

Q. You have already testified.—A. You have asked a question.

Mr. CALLAHAN. Wait a while, Mr. Burlen.

Q. Please answer the questions.

Mr. CALLAHAN. I submit, Mr. Notary, that the witness be permitted to answer his questions.

Notary MANCOVITZ. He is going to be permitted to answer the questions.

Mr. CALLAHAN. I think Mr. O'Connell is well qualified to ask questions and doesn't need much assistance from Mr. Harrington or Mr. Goodwin. Answer the question, now, Mr. Burlen.

Mr. O'CONNELL. We will find out what the question is. Go back and find out what the question is.

(The question is read, as follows: "You had full power to call them, if you wished, didn't you?")

The WITNESS. The law provides——

Q. Will you say yes or no, if you can?—A. I will explain. The law provides we shall receive complaints and go into the complaints, and, if satisfied that there are sufficient reasons, we should issue summonses; and we weren't satisfied and did not issue any summonses.

Q. You weren't satisfied?—A. No.

Q. Now, then, had you to satisfy yourselves—did you call any witnesses of any kind?—A. No.

Q. What investigation did you make, other than looking in the voting lists of prior years and looking in the police lists of that year in the supplemental registration in your office?—A. We had no evidence before us.

Q. Did you make any other investigation?—A. No.

Q. Other than looking at those records in your office?—A. No.

Q. So that a man who was illegally registered the year before or who was illegally registering in the supplementary registration, and whose name was on your lists wasn't investigated, simply because his name was on those lists?—A. We claim that the voting list of the year before was a proper one. The names were returned by the police.

Q. Now, let us see.

Mr. CALLAHAN. Wait, wait.

Q. Have you finished?—A. The names having been returned by the police and were found to be voters, we considered that list the proper one.

Q. Let me see. In 1917 did the police make the listing?—A. The police or the assessors, one of the two.

Q. Which is it?—A. I think it was the assessors.

Q. Then you will withdraw your testimony in reference to the police, won't you?—A. If I made a mistake; yes, I will.

Q. I want to have you tell this thing right.—A. I do not know but the police made it, Mr. O'Connell.

Q. What?—A. The police may have made it in 1917. I think they did.

Q. It is only two years ago, and you are familiar with the election laws.—A. Sometimes——

Q. It is your whole business, isn't it?—A. Yes.

Q. And can't you tell us whether the police made the listing or the assessors?—

A. I think the police made it in 1917.

Q. Are you sure of that?—A. I think so; yes.

Q. Do you know when the change was made by which the police were relieved of it and it was given to assessors?—A. I think two or three years ago.

Q. If it was two or three years ago, it would include 1917, wouldn't it?—A. I think the police made the investigation in 1917.

Q. That is only year before last?—A. My records here show they made it, so I guess they did.

Q. What records have you got to show that?—A. Now, let us see. I thought it was a notation on my slip of paper; but I am very positive the police made the listing of 1917.

Q. Let me call your attention to the act of 1917, passed February 28 of that year.—A. When did it go into effect?

Q. Go into effect at once.—A. Then——

Q. "This act shall take effect on its passage."—A. The police did make the listing in 1917, did they?

Q. Look at the law. I will give you the law. After you have read the law probably you will be able to have your testimony in accordance with facts.—A. (Witness examines pamphlet.) This law is of 1917, and I think by this law, Mr. O'Connell, that the police made the investigation in 1917.

Mr. O'CONNELL. Well, I will offer the law, and then we won't have any argument about it. Mark that, will you, please?

(The pamphlet, containing chapter 179, General Acts of 1917, is admitted in evidence and marked "Contestant's Exhibit No. 114.")

Q. Now, then, you knew at that time, Mr. Burlen, that when you gave us 15 minutes' notice to proceed, that the hearing before the ballot law commission was then on, didn't you?

Mr. CALLAHAN. Now, wait. The letter shows and your answer shows very clearly that the hearing was not on, and you—just wait a moment. (To Mr. Goodwin.) I don't want to talk to you at all. The letter shows very plainly—

Mr. O'CONNELL. More speeches.

Mr. CALLAHAN. I know, but the letter shows—

Mr. GOODWIN. The letter takes care of itself.

Mr. CALLAHAN. I just want to say this: Mr. O'Connell's letter shows very clearly that he begged off that afternoon because he said he had a very important appointment. It wasn't because he was before the ballot-law commission. You know that.

Mr. O'CONNELL. The letter speaks for itself, and doesn't need any elaboration from you.

Mr. CALLAHAN. That is what it says. Having that in mind—

Q. You knew Mr. Burlen, did you not—A. Not from your statement in your letter.

Q. Oh, well, read the letter again and then see if—A. Yes.

Q. (Continuing.) The hearing was not yet over, and that I hoped it would be over very soon. See if that is in the letter.

A. (Reading:) "Your notice, as delivered by Mr. Mahoney at 2 o'clock to-day, following your telephone communication of 15 minutes before, is duly acknowledged.

"I note that you state your board is willing to hear Mr. Tague at 2.30 to-day, but, in the absence of Mr. Tague, whom I have not been able to reach on the phone, I am unable to state just when he will be ready to appear before you. Personally I will be unable to do so, because I am engaged this afternoon on an important matter that can not be put aside.

"As you know, the hearing before the ballot-law commission is to be resumed to-morrow"—

Q. Go slow.—A. (Continues reading:)

"As you know, the hearing before the ballot-law commission is to be resumed to-morrow at 10 o'clock for the final argument, and each side is limited to one hour and a quarter, and I am in hopes that we will be finished by 1 o'clock.

"I will appear before your board with Mr. Tague just as soon as we have finished there, and, to the best of my belief, we can be there at 2.30 to-morrow. Of course, you will appreciate that your notice was very brief, and it is only on account of this fact that we haven't been able to avail ourselves of the appointment suggested by you."

Q. Don't you know, then, as a matter of fact, that instead of finishing that afternoon, the next afternoon, as I had anticipated, the ballot-law commission continued the matter, and the arguments did not take place until four days after that, and that the whole matter was not decided until four days subsequent to that? Don't you know that as a matter of fact, and wasn't it a matter of public knowledge and notice at the time?

Mr. CALLAHAN. If he knows.

A. I do not remember that at all.

Q. One question or two before I leave the subject go. You had received this petition on October 22, and on October 24 you gave me 15 minutes' notice to come in and be heard. Do you think, as a public official, that that was fair treatment or reasonable treatment?—A. Mr. O'Connell—

Q. Can't you answer that yes or no?—A. I don't think if I only gave 15 minutes' notice it was time enough, but you had more than that.

Q. Where?—A. At your office, by telephone.

Q. Wasn't that 15 minutes?—A. No; my dear man.

Q. Doesn't my letter say you telephoned me at 15 minutes of 2 to be ready at 2 o'clock?—A. I did not telephone at 2.

Q. When?—A. In the morning, sir.

Q. Read the letter and see.

Mr. CALLAHAN. The letter has been read twice.

Mr. O'CONNELL. Let him read it again.

The WITNESS. You have asked me a question, and I have answered it, and I say you ought to have more than 15 minutes' notice.

Q. Were you taking orders or was it any suggestion from anybody outside of the board that made you give us what would be called unreasonable notice?—

A. The first part of your question is insulting. The last part I will answer.

Q. Go as far as you like.—A. We take orders from no one.

Q. Was there any suggestion, was my question?—A. From no one.

Q. From no one. Why didn't you give us more notice than that?—A. You had two or three days' notice, and you have had all the time——

Q. When did that come?—A. The next day I sent Commissioner Wasserman up to see you.

Q. Who?—A. Sent Commissioner Wasserman up to see you.

Q. When?—A. The next day.

Q. Have you any record of anything like that?—A. Summons him.

Q. I am asking you if you have any record of having sent notice to me at any time prior to that letter?—A. I sent an oral message to you by Mr. Wasserman.

Q. Are you sure of that?—A. Yes, sir.

Q. All right, sir. Is there any record of that in your book?—A. An oral message by Mr. Wasserman.

Q. I am asking you a question. Is there any record of having sent notice to us?—A. We don't put oral messages in the book.

Q. Do you keep a record of anything like that at all?—A. No.

Q. Why did you keep that [indicating]?—A. That is a letter communication.

Q. And the other is a communication sent by a messenger, is it?—A. Summons, Mr. Wasserman.

Q. Was that communication by virtue of any action of the board?—A. Yes, sir.

Q. Is there any record of the action?—A. No.

Q. Where is that record?—A. My word for it.

Q. Is that all?—A. Yes; that is good enough.

Q. Is there any record of telephone messages?—A. I think Mr. Mahoney was there. He will testify to that.

Q. Why did you make—why were you so careful to make a record in your letter of our telephone communication and have no record of having sent anybody else to me?—A. I knew who I was dealing with, Mr. O'Connell.

Q. Why didn't you make a note?—A. The letter is note enough for me.

Q. I mean of any other prior notice?—A. No necessity of it at all.

Q. Do you mean to say now you sent me a communication by Mr. Wasserman prior to that letter or after?—A. After.

Q. After. So that in the 48 hours you had it you sent no notice except that 15 minutes' notice, did you?—A. I sent you that notice at that time of day.

Q. And it was only 15 minutes' notice?—A. I do not know about the time you got it.

Q. Was that as the result of action by the board?—A. Yes.

Q. Have you any record of that action?—A. No; I do not think we have.

Q. Who is the secretary of your board?—A. I think Mr. Finigan is.

Q. Did he keep the records of the board?—A. Yes.

Q. Have you got the records of the board here?—A. No, sir.

Q. Did you get in touch with the police officers of the city of Boston and ask them to come in to give you information as to how they had gotten names and put them on the list? Did you get in touch with the assessors of the city of Boston whose names——A. No.

Q. (Continuing.) Were available to you to find out whether—how they had gotten the names and put them on the list?—A. No.

Q. Did you call in the officials of your own office to find out what investigations they had made?—A. We passed the officials in our office the sheets and had them examine them.

Q. Did you examine any of the officials in your office who had anything to do with the supplemental listing of those men and ask them concerning that registration?—A. No.

Q. No. In other words, you did not do a thing except look up lists, and if you found the name on the lists that was sufficient for you?—A. As I stated in my letter here, we gave it to our office force, and they went over it and found those men were properly on the list according to our records.

Q. The only investigation made was to find whether names were on the list. How they got on the list, who put them, whether they belonged there or not, you made no investigation, did you?—A. We investigated the legal report of the police listing, and the men were carried on that.

Q. Then the whole thing is this: You made no effort to investigate these grave charges, except to find out that the names were on the lists, as we had told you they were on the lists. That is true, isn't it?—A. We gave these lists of names to our clerks and asked them to investigate as to whether those names were on the lists according to the records in the office. They reported they were.

Q. In other words, all they did, was to verify what we had told you, that those names were on the voting lists, and no effort was made to find out whether they were illegally on the list as we charged, was there?—A. We did not have any evidence that they were illegally on the list, and you did not give us any evidence they were.

Q. Did you seek any?—A. You made the charges. We did not make them. We were satisfied our lists were proper.

Q. You have read the law wherein you had the right to summons?—A. Yes; after a hearing. If we were satisfied with the facts. We weren't satisfied with the facts and did not summons them.

Q. Why did you make the investigations you speak of?—A. My dear man, always on questions of that kind we make investigations where no evidence is presented by the complainant.

Q. All that that is is a verification of the charges made by us?—A. We thought those 203 men had a right to go to the voting place on that day with a clean record, and we did our best to find it.

Q. What did you do? If you call that your best, tell us the whole thing you did if that is what you call your best. I will give you the fullest opportunity to describe to the committee everything you did, so that they may understand all that you did.—A. I will tell you what we did.

Q. If that is what you call the best, I want Congress to know it.—A. I want them to know it. I will read you it. I say, Mr. O'Connell, this is already in evidence. It is just repetition. I can find the paper here in a minute.

"The board found that the persons complained of"—

Q. What have you there?

Mr. CALLAHAN. Now, wait a while.

The WITNESS. It is a memorandum of mine.

Mr. CALLAHAN. Let him read.

Q. Oh, when did you make it?—A. Made it somewhere about the 4th of November, 1918.

Q. What did you make it for?—A. It is part of the record.

Q. Record of what?—A. The election commissioners.

Q. Part of your records now?—A. Yes, sir.

Q. Then, it isn't a memorandum of your own?—A. It is a copy made by a clerk.

Q. How do you know the clerk made a proper copy of it?—A. What is that?

Q. Did you compare it with what was there?—A. I think it is a copy of the record.

Q. Did you compare it, I am asking you?—A. The clerk compared it for me.

Q. Then it is a memorandum made by somebody else and compared by him?—A. Yes.

Q. You do not know whether it is a copy or not?—A. I think it is correct.

Q. You only think so. You haven't compared it yourself?—A. I think it is correct.

Q. You haven't compared it yourself?—A. Do you want it?

Q. You haven't compared it yourself?—A. I think it is correct.

Q. Oh, don't you want to answer the question?—A. Yes; I think it is correct.

Q. I am asking you whether you compared it?—A. I think I did last November.

Q. When?—A. Last November, when I made it.

Q. Are you sure you did?—A. Yes; I think I did.

Q. All right, you think. Inasmuch as you are positive now you made it, you may go ahead and refer to it, but I warn you in reference to your earlier testimony about it—A. Yes, sir. The complaint—I will give you the whole of it now.

Q. I asked you for all information.—A. (Reading:)

"NOVEMBER 4, 1918.

"In board. All present.

"Complaint of Peter F. Tague against 203 registered voters of the city of Boston was filed with the election commissioners on October 22, 1918, at 4.55 p. m., in accordance with section 52 of chapter 835 of the acts of 1913.

"The board, under date of October 24, 1918, notified Hon. Peter F. Tague and his counsel, Hon. Joseph F. O'Connell, by letter, a copy of which may be found in office copy book, at page 423, that they had set 2.30 p. m., October 24, 1918, to examine into such complaints, and received reply from Mr. O'Connell on October 24, 1918, that it would be impossible for him to appear. See his letter on file.

"The board further notified Mr. Tague and Mr. O'Connell verbally twice that it was ready to hear them on their complaint, and up to this date they have failed to appear. The board, therefore, has examined into the complaint, as required under the provisions of section 52 of said chapter 835, and have voted that no summons be issued in accordance with entry on the docket.

"The board found that the persons complained of were either on the voting list of 1917 and carried to the 1918 list by the return of the listing board, which showed them to be April 1 residents, or they appeared before the board and were supplementary listed and registered according to law."

Q. Let me look at that, will you please?—A. (Witness hands paper to counsel.)

Q. What do you mean by this statement in here, "That the person" in the last part of it?

(The memorandum dated Nov. 4, 1918, is admitted in evidence and marked, "Contestee's Exhibit No. 15.")

Q. What do you mean by this statement in the last part of this, "The board found that the persons complained of were either on the voting list of 1917 and carried to the 1918 list by the return of the listing board which showed them to be April 1 residents, or they appeared before the board and were supplementally listed and registered according to law?" Do you mean by that statement any of these men whom we have accused, appeared before your board after we had accused them of being illegally registered?—A. We did not summons them. We gave the list to our clerks in the office to look up.

Q. They looked them up on the lists in your office and found them to be on the lists in your office?—A. Yes.

Q. And that is all?—A. Yes.

Q. The counting that went on there went on in the room outside, two rooms beyond where your board sat in connection with the contested ballots that came in before them. That is true, isn't it?—A. Some of the counting went on in the next room.

Q. How could it? I thought the secretary and clerk and Mr. Mahoney and the rest were in the next room?—A. My mind, I think in the big election room we had a table in there counting.

Q. Where?—A. In the big room of the election board.

Q. Did you ever have a table counting in the big election room?—A. Lots of times.

Q. I am talking about this recount?—A. It may be the six wards were counted out in the workroom.

Q. Do you know where they were counted?—A. I think they were—I say perhaps they were counted outside.

Q. What?—A. I think they were perhaps counted outside.

Q. Were any counted inside?—A. I do not think there were. The election and the primary came pretty near together. I am liable to confuse the two. I think perhaps the six wards were counted outside in the election room, though it may be one of the wards was counted in our own room. I can't remember.

Q. Now, are you positive that there was a recount?

Mr. CALLAHAN. That is absurd.

A. That is another insulting question, Mr. O'Connell, and I am surprised at you as a reputable attorney asking a man that question.

Q. Are you positive where that recount took place?—A. That is another insulting question.

Q. Where did it take place? I want to get this in.—A. In the rooms of the election commissioners at the city hall annex.

Q. Which room did it take place in?—A. The majority of it in the outside workroom. There may have been one ward counter in the room of the board.

Q. Is there any place where a table could be counted in the morning in any other room outside of that one?—A. Why, certainly. We could count it in our own room, in the room of the board. It is a large room, half as large as this room, almost. I have forgotten whether I detailed the six wards outside in the clerk's rooms, or one room inside. That is a mere matter of arrangement.

Q. I should say it was. Don't you recall the arrangement?—A. I have told you to the best of my recollection.

Q. Don't you recall the number of times Mr. O'Day came into you to bring in requests from what was going on out in that big room and that you had to

go out there and straighten them out?—A. That would have been where they counted in our own room. He came in from the outside.

Q. And going through, did you ever come across a table where they were recounting in that other room?—A. We have counted time and again in our own room.

Q. I am talking about this time.—A. Why, I think so. I think we had the six wards outside. We may have had a ward inside in our own room.

Mr. O'CONNELL. If his memory is no better on everything else, I have a right to show, I have a right to show his memory is perfectly defective.

Q. Now, I will ask you to reflect, when you made the order in the morning for the counting of those ballots, where did you make the statement as to what was to be done during that recount?—A. I think I made it outside in the clerk's room.

Q. Did you make any inside to anybody?—A. I may have.

Q. Do you remember whether you did or not?—A. I may have done so. Quite a lot of things have happened since then and at that time.

Redirect examination by Mr. CALLAHAN:

Q. All your work in the conduct of your office is regulated by statute?—A. Yes.

Q. And everything in the conduct of your office, whether it is the distribution of ballots, the counting of ballots, the appointment of men, and so forth, all is regulated by statute?—A. Yes.

Q. Now, in this matter of the sending of the names from the secretary of state's office, there was no statute that required you to mark those names off on the voting lists before the primaries?—A. No, sir.

Q. Is that so?—A. No; no statute.

Q. And it wasn't until after the primary that you secured from the secretary of state a list of the names of men who had applied to vote under the absentee voting law?—A. Yes.

Q. Is that so?—A. Yes.

Q. And when you did receive a list of the names of those men who applied to vote under the absentee's law, you then placed that on the voting lists aside of their names?—A. Yes.

Q. That was for the election?—A. Yes.

Q. And that was what the statute called for, wasn't it?—A. Yes.

Q. To enable the soldiers who were away to vote at election?—A. Yes.

Mr. CALLAHAN. That is all.

Recross-examination by Mr. O'CONNELL:

Q. But the list we have been speaking about that was sent by the secretary of state, those were lists that were sent to you in July and August, were they not?—A. Yes.

Q. Yes. And kept in the possession of your office for a week or more?—A. Some of them were kept two or three days. Some five or six days, and some seven or eight days. We were so very busy there we could not take care of them.

Q. Nothing in the letter that says anything about absentee voters?—A. I read the letter here.

Q. Don't you know? You have read it twice.—A. Nothing said in it about absentee voting.

Q. You said everything in your office is regulated by statute?—A. Yes.

Q. Is that so?—A. Pretty nearly; yes.

Q. And everything lived up to?—A. Well, we try to live up to the law, Mr. O'Connell. We try to.

Q. I do not blame you for laughing at that. I am going to ask you this: Does the statute require when ballots are put into the vault that the vault is to be locked by one member of the Republican—one Republican member of the board and one Democratic member of the board?—A. No.

Q. What does it require?—A. It requires their safe-keeping. Nothing said in regard to it except to put them away and keep them there.

Q. Have you a rule in the board that the vault is not to be entered or opened or closed except by two members?—A. No.

Q. One member of each opposing party?—A. Way back in 1900, when the board was established, first established, in 1895, when the board was first established, the members of the board at that time decided to have two locks on the safe, but we have no rule at all.

Q. Then there was no rule that would prevent you, as a Republican member of that board, going into that vault at any time, is there?—A. I never have been in that vault without an attending Democratic commissioner.

Q. I didn't ask you that at all.—A. No rule.

Q. Don't get excited.—A. I am not getting excited.

Q. Didn't you testify before the ballot-law commission that no man could go into that vault without the other man being present?—A. I do not think I did. If I did, why, it never was done while I have been there.

Q. Have you known of other members of the board?—A. No, sir; I never have.

Q. (Continuing.) Leaving the combination?—A. Never.

Q. (Continuing.) Anybody could go into that vault?—A. Never.

Q. Did you hear about it when it took place last fall?—A. Never heard about it at all.

Q. Didn't you hear about Mr. Finigan going in there alone?—A. Never.

Q. Did you hear about Mr. Wasserman going there and throwing the combination so that Mr. Finigan could go in whenever he wanted?—A. Never.

Q. Didn't hear about what took place there?—A. No, sir. Whenever I have been there, I have been there with a man of the opposite political party.

Q. Do you read the Boston papers?—A. I may read papers. That isn't testimony.

Q. Did you ask your colleagues about it?—A. Yes, sir.

Q. You are chairman of the board?—A. Yes.

Q. Don't you know what is going on?—A. Certainly, generally.

Q. Didn't you know that went on?—A. No; I didn't.

Q. In other words, it is possible for your colleagues on that board to do things in reference to that vault and you will know nothing about it?—A. I have the highest respect and confidence in my colleagues in the board.

Q. I am not asking you about that. Let me call your attention, then, so you will never in the future say you didn't hear about it.—A. Go ahead.

Q. I want to call your attention to what took place at the hearing.

Mr. CALLAHAN. In your previous question you referred to two incidents, one incident occurring before the primary hearing—after the primary hearing—and one a short while ago.

Q. I call your attention to the testimony of Mr. Jacob Wasserman, a member of the board:

“Q. Your full name?—A. Jacob Wasserman.

“Q. One of the”—

I will read the whole of it so there will be no question about it.

“Q. (Continuing.) You are one of the election commissioners of the city of Boston?—A. I am.

“Q. One of what they call the Republican commissioners?—A. Exactly.

“Q. You hold a part of the Republican combination of the safe?—A. Yes.

“Q. You just came into this election-commission hearing this afternoon at a few minutes past 3?—A. No.

“Q. When were you here before that?—A. I have been here on four different occasions.

“Q. Since noon time when were you here?—A. Since noon time, around 2 o'clock.

“Q. What time at 2 o'clock were you here?—A. Around 2.

“Q. And then where did you go to?—A. I went to my office.

“Q. And you did not go to the vault with Mr. Finnigan from 2 o'clock on, did you?—A. No.

“Q. Have you been down to the vault since you came back to the room?—A. Since when?

“Q. Since you came back from going to your office?—A. No.

“Q. Republican Commissioner Burlen is not present, is he?—A. I do not see him here.

“Q. He hasn't been present all day?—A. I haven't seen him. I do not know.

“Q. So far as you know you are the only Republican commissioner present at this hearing?—A. I am now.

“Q. When did you swing the combination of that vault back?—A. Back?

“Q. When did you touch the combination of that vault this afternoon?—A. I did not touch it this afternoon.

“Q. You did not touch it this afternoon? When did you touch that combination?—A. This morning.

“Q. At what time?—A. About half past 9.

“Q. And since that time you haven't been to the vault?—A. I have.

"Q. When?—A. Since that time.

"Q. For what purpose?—A. For the purpose of watching it being opened.

"Q. Has the vault been closed since?—A. It has been shut. My combination was left unlocked.

"Q. Your combination was left unlocked so that Mr. Finnigan was able to go down to the vault without your being present, as the result of your having left that combination unlocked?—A. Yes.

"Q. Any time from 9 o'clock up to the present time?—A. Any time from half past 9 up to the present time.

"Q. Did you put the combination on last night?—A. I believe I did.

"Q. Are you sure?—A. Fairly sure.

"Now, reflect.—A. I have reflected.

"Q. What time did you put it on?—A. My recollection is that it was put on around half past 5.

"Q. You are not sure of that, are you?—A. That is my best recollection.

"Q. Would it surprise you to know you did not put it on after Commissioner Finnigan's putting it on last night?—A. It would surprise me; yes."

Now the testimony of Mr. Finnigan. He testified and said he went there alone.

Mr. CALLAHAN. Please note my objection to all of this.

Notary MUSCOVITZ. Your objection noted.

Mr. CALLAHAN. It isn't to contradict any testimony by the present witness.

"By Mr. O'CONNELL:

"Q. Mr. Finigan, where did you get these ballots that were just brought into the room now for these wards?—A. Out of the vault.

"Q. How did you get into the vault?—A. By opening the safe.

"Q. You were alone when you opened it, were you not?—A. Yes, sir.

"Q. No Republican commissioner was with you?—A. Yes.

"Q. Who was?—A. Just previous.

"Q. Who?—A. Just previous.

"Q. Where was he?—A. Why, he wasn't right there at the safe, but he had thrown his combination so I could have got right in.

"Q. Then the combination had been thrown over previously to that, and you went down and got these ballots without his presence?—A. No.

"Q. Well, he wasn't there?—A. No; it wasn't necessary.

"Q. He wasn't there?—A. No.

"Q. In other words, you were able to get into the vault—wait a minute, please, so I may get this on the record—you were able to get into the vault since 2 o'clock without the presence of any Republican commissioner. That is true?—A. No.

"Q. Was there any Republican commissioner present?—A. Yes.

"Q. Where?—A. Right there.

"Q. Who was it?—A. Mr. Wasserman.

"Q. All right. Was he present when you were down there?—A. Yes."

A. I haven't any change to make in my testimony.

Q. So that from the testimony of Mr. Wasserman and Mr. Finigan that vault was opened from half-past 9 in the morning, allowing Mr. Finigan to go down there at any time during that day?

Mr. CALLAHAN. You don't need to answer that question, Mr. Burlen.

Q. Did you know that condition to have existed prior to this?—A. No. If I had known it, I would have been perfectly willing to trust them.

Q. I beg your pardon?—A. If I had known it, I would have been perfectly willing to trust them.

Q. I am not asking you that, sir.—A. I want to interject it into my testimony.

Mr. CALLAHAN. This whole thing about the vault is only camouflage.

Q. What is the necessity, then, of having two combinations if you have such implicit trust in your fellow commissioners?—A. It was one of those old rules that came down from an old board and we continued it, and I have always insisted that—

Q. Didn't you tell at the ballot-law commission that was one of the reasons they should have confidence in what they did because no one man could go in that vault?—A. I do not remember saying that.

Q. Did you so report to Mayor Peters when he asked you to report on what precautions were being taken?—A. I do not remember saying that to him.

Mr. O'CONNELL. That is all.

Mr. CALLAHAN. That is all.

(Short recess.)

Redirect examination by Mr. CALLAHAN :

Q. This [indicating] is a report by your commission, Mr. Burlen?

Mr. O'CONNELL. Will you agree with us, and we will admit it?

Mr. CALLAHAN. If you want to.

Mr. HARRINGTON. What year?

Mr. CALLAHAN. 1918. Want to admit it, and we will refer to it later.

(Election commission's report, 1918, is admitted in evidence and marked "Contestee's Exhibit No. 16.")

Q. Besides being appointed by the mayor to serve on this commission, each commissioner must be certified by the State board of civil-service commissioners?—A. Yes, sir.

Q. And the civil-service commission is a board appointed by the governor of Massachusetts?—A. Yes.

Q. Now, when Mr. O'Connell was a candidate for Congress, and his election was contested, you were then a member of the election commission?—A. I was.

Q. Which counted and recounted the ballots in that case?—A. Yes, sir.

Mr. CALLAHAN. That is all.

MELANCTHON W. BURLIN.

Mr. FREDERICK A. FINIGAN sworn :

By Mr. CALLAHAN :

Q. What is your name?—A. Frederick A. Finigan.

Q. And you are an election commissioner in the city of Boston?—A. So appointed.

Q. You are an election commissioner in the city of Boston?—A. Yes, sir.

Q. And for how long, Mr. Finigan?—A. Since the 16th day of April, 1918.

Q. You were appointed by Mayor Peters?—A. Yes, sir.

Q. And subsequently confirmed by the civil service commission of Massachusetts?—A. Yes, sir.

Q. And you have had considerable political experience, Mr. Finigan?—A. Some.

Q. You have been in the city council?—A. Yes, sir.

Q. And before being elected a commissioner you were a clerk in the municipal court. Is that so?—A. For five years.

Q. Now, it has been testified, Mr. Finigan, by Mr. Tague, I believe, that on one occasion when a question came up about—on one occasion Mr. Tague says that in deciding a vote that was questioned—

Mr. O'CONNELL. What page are you testifying from?

Q. (Continuing.) You made this statement: "Yes; I know I have made a mistake. I know I am wrong, and I am going to stay wrong." Do you recall making such a statement as that, Mr. Finigan?—A. That is a part of the statement I made.

Q. Will you tell us what statement you did actually make at that time?—A. I was taken to task by Mr. O'Connell, the attorney, for ruling, as he said, wrongly on a certain matter, and I said to Mr. O'Connell, "I am wrong. I am satisfied to be wrong, and I hope to remain wrong if you the judge."

Q. Now, will you tell us the circumstances, please, that led up to that remark? First of all, was this at a recount of the primary or recount of the election?—A. This was at the primary.

Q. The recount of the primary. Now, will you please tell us about the circumstances that led up to that remark?—A. To the best of my recollection, it happened at a time when a question was raised as to the parties contesting, or those interested. I might say, of looking over the descriptive list. It was ruled by the board that certain parts of that list were not to be seen, as it was against the rules of the board and the law to do so. The tables were so arranged that the parties interested could easily see anything, which, in the opinion of the board, they wished to determine—was exposed to their view—when one of the parties interested came around on the side occupied by the members of the board. I asked the gentleman to step on the other side of the table, and he refused to do so, and what I said to him caused Mr. O'Connell to say that I had ruled wrongly, and at that time I told him if I was wrong I was satisfied to be wrong, and hoped I would stay wrong if he was the judge.

Q. Now, do you know who was that person?—A. I know the party; yes.

Q. Did you have any particular reason for saying that?—A. Well, owing to the manner in which the recount was proceeding and the various questions that were raised from time to time and the general conduct of it, I thought that one

could not be any too cautious. I knew that there wouldn't be anything in the nature of a fair result were it possible for anybody who might slide their hands in among the various exhibits on the table, and possibly one of them might be missing at the end of the hearing, and I wasn't taking any chances with the particular gentleman I had reference to at that time.

Q. Was there anything that you knew about him that led you to believe that he might do that?—A. Why, I had possible reasons which I had learned in politics that sometimes men are very desperate and might take a chance.

Q. Did you have any particular reason for believing that that particular man would do that?—A. Nothing but what, in my judgment, would—my own personal judgment would lead me to say, "Be careful; be cautious."

Q. Are you willing to give that man's name?—A. The gentleman's name is Flynn.

Q. Do you know his first name?—A. I couldn't tell his first name.

Q. Was he one of the watchers for Mr. Tague?—A. At that time, to all appearances, very much interested.

Mr. CALLAHAN. That is all.

Cross-examination by Mr. O'CONNELL:

Q. Now, just a second. You were an assistant of Mr. William F. Donovan up in the municipal court of the city of Boston?—A. Was an assistant clerk of the municipal court, civil.

Q. You were appointed as the result of your friendship with Martin M. Lomasney?—A. Under no consideration.

Q. Donovan was Mr. Lomasney's particular friend?—A. I know nothing at all about his relationship or friendship.

Q. You resigned that office to become one of Mr. Peters's campaign managers—A. I did.

Q. And in reward for your services in the campaign for Mr. Peters Mr. Peters appointed you election commissioner of the city of Boston?—A. I was appointed election commissioner of the city of Boston.

Q. And very shortly after Mr. Peters became mayor?—A. At the expiration of Mr. Twomey's term.

Q. How long after Mr. Peters took his office did you get your office?—A. The office, by tenor of office, expired on April 1, and I took office the 16th of April.

Q. Mr. Peters took office about the 16th of February?—A. About the 1st day of February.

Q. Wasn't it the 13th?

Mr. CALLAHAN. It was the 1st.

Mr. HARRINGTON. The first Monday.

Q. In other words, in about two months—certainly less than three months—after Mr. Peters was in office you were given this office. One of Mr. Peters's principal supporters for election was Mr. Lomasney. That is true, isn't it?—A. I couldn't say.

Q. Don't you know?—A. No.

Q. Don't you know that Mr. Lomasney supported him?—A. No.

Q. You were one of the campaign managers and did not know that?—A. I was one of them.

Q. Don't you know that Mr. Lomasney delivered his ward over to Peters?—A. I know nothing about Lomasney or his politics.

Q. You were election commissioner in the city of Boston?—A. Yes.

Q. You don't know that?—A. I don't know that Mr. Lomasney cast all the ballots in the ward.

Q. As a matter of fact, as campaign manager, do you know anything?—A. Not much, according to you.

Q. I am asking you to testify for yourself.—A. I say not much, according to you.

Q. During that campaign were you so unfamiliar with what was going on that you did not—that you did not know about Mr. Lomasney?—A. Yes.

Q. Were you in Boston?—A. Yes.

Q. Now, Mr. Finigan, do you recall that when—let me refresh your recollection, if I can, to show you that your impression of what took place is wrong. As a matter of fact, when you made that statement concerning your being wrong and staying wrong, glad you were wrong, was not that as the result of your covering up the designation of those who had voted at the primary?—A. That is what I testified to.

Q. Now, then, in other words, we were attempting to find out how many Democratic votes had been cast at that primary—precinct, were we not?—A. It might have been your object on that side of the table.

Q. What were we counting them up for if it wasn't to find out the Democratic votes?—A. I say that was your object on the position you held at the time.

Q. Wasn't the whole recount in reference to the Democratic votes cast at the primary?—A. Absolutely.

Q. Wasn't the effort to find out the number of those who had been checked off on the lists as Democrats?—A. Absolutely.

Q. In spite of that being the fact you had covered up the list, so it was impossible to discover the names of those who did vote and who were designated as Democrats.—A. I didn't rule against any action on your part. It was the position of this other man that came around the other side.

Q. Let me see. It was a protest about that that led to this decision by you, was it not?—A. It was my interrupting your scrutiny of such a book as is in question here that this remark resulted from by one of your assistants coming on the other side.

Q. You insisted—when we were getting the names you insisted on taking a piece of paper and placing it down on the list that had the designation "Dem." or "Rep."?—A. I did not engage in anything of the kind.

Q. Did you take a piece of paper and put it along there?—A. I did not.

Q. Who did?—A. I do not remember.

Q. You did see it done?—A. I did not.

Q. Was not the list of voters which was designated on the book by the printed words "Dem." and "Rep." covered over, so we could not see it?—A. Yes.

Q. Wasn't that the thing that was protested about?—A. No, sir.

Q. Do you recall Mr. Harrington stepping around there?—A. Mr. Harrington wasn't the gentleman.

Q. Do you recall saying Mr. Harrington couldn't see them?—A. No, I do not.

Q. Do you recall Mr. Harrington being there?—A. I remember him being in the room.

Q. Yes. Do you recall him saying, "Fred, you are wrong"?—A. No.

Q. Do you recall saying to him, "Well, it don't make any difference. I have made the statement, and it is going to go"?—A. No; I do not remember making that. I might have made it, though.

Q. That was in answer to his protest asking you to withdraw what you had said?—A. No; that was in answer to your protest that I was wrong.

Q. And following up the conversation you have testified to?—A. Yes.

Q. Didn't Mr. Whiteside render a decision subsequent that we were entitled to see everything that was there?

Mr. CALLAHAN. Wait, wait. I suppose Mr. Whiteside——

Mr. O'CONNELL. Pardon me. Let me withdraw that and frame it in a different way.

Q. Didn't Mr. Whiteside, corporation counsel for the city of Boston, send an opinion to your board stating in the opinion that——

Mr. CALLAHAN. I suppose the opinion——

Q. (Continuing) We were entitled to see everything that was there?—A. Not to any inquiry of mine. You were getting that all the time. It wasn't necessary for Mr. Whiteside to give us the opinion.

Q. Didn't Mr. Whiteside do so?—A. Not to my knowledge; no.

Q. What?—A. No.

Q. Have you got the opinion signed by Mr. Whiteside?—A. No.

Q. I will call your attention to the fact, to the opinion rendered by Mr. Whiteside.—A. Not to any inquiry of mine.

Q. I am not talking about any inquiry of yours, sir.—A. I thought you were. I thought I was testifying.

Q. It was an inquiry of the board. You know the board got an opinion from Mr. Whiteside, don't you, at the time of the recount of that primary vote?—A. Yes, sir.

Q. In that opinion which you got you, as a member of the board, were told that Mr. Tague was entitled to see all the papers that were there, of all kinds, were you not?—A. I won't say yes. I don't remember.

Q. And let me call your attention to this:

“CITY OF BOSTON, LAW DEPARTMENT,
“October 2, 1918.

“Board of Election Commissioners, City Hall, Boston.

“GENTLEMEN: I understand that you desire my opinion on the following points:

“1. Can the voting lists as provided for by the statutes of 1913, chapter 835, part 1, section 85, be opened, examined, and inspected by the board?

“2. Are clerks' records and official returns open to public inspection?

“3. On a recount, has the board the right to open and examine ballots not cast?

“I should answer these questions as follows:

“1. I should answer question 1 in the affirmative. The voting lists might contain matter pertaining to the votes cast for the respective contesting parties, and material on the question of recount. Therefore I believe the board has the power to examine these lists. If it is to do so, I think, in order to satisfy all parties, that the recount is conducted with absolute fairness, there is no objection to allowing the contesting parties make such reasonable inspection as they may wish of these voting lists while the board itself or its agent is examining them.”

You are familiar with that opinion, are you not?—A. I am, since you read it; but it was of such small importance I did not take any notice of it at the time.

Q. You did not think it was worthy of notice at the time?—A. I wasn't standing on his opinion in any matters pertaining to recounts. I had my own.

Q. You are not a member of the bar?—A. No. Thank the Lord, in some cases.

Q. You had no experience as an election commissioner up to April, prior to that September, had you?—A. No.

Q. And, as a matter of fact, this was the first contested-election case you ever sat on?—A. No; I took up that book of yours there that I had read through thoroughly. I was quite familiar with contested cases.

Q. It was the first contested-election case or first recount that had ever come under your jurisdiction as an election commissioner?—A. Jurisdiction, yes; but not observation.

Q. But it was the first one you participated in as an election commissioner?—A. Yes.

Q. And although it was your first one, you still paid no attention to the opinion of the corporation counsel?—A. No; because he never had any.

Q. And was it because you felt that the corporation counsel, Mr. Whiteside, had no experience as an election official that you decided you would disregard his opinion?—A. I felt satisfied with my own in the case. I was an election commissioner.

Q. Did you participate in the vote of the board which called upon him to answer those questions?—A. I perhaps did.

Q. Then did you participate in asking him to answer a question which was submitted to him in his official capacity and coming from your board in its official capacity? Was there any reason why you should not have paid attention to the opinion which he rendered to you?—A. Only in so far as I knew it was confirming what we were already doing.

Q. In other words, if he would agree with you, you would follow it, but if he disagreed with you, you wouldn't follow it?—A. We should have to get further into the merits of the situation; yes.

Mr. O'CONNELL. I think that is all, Mr. Finigan.

Redirect examination by Mr. CALLAHAN:

Q. Now, by “looking further into the merits,” you mean you would have to call in the chief justice of the court to proceed with your board?—A. Absolutely.

Q. There is a statute that provides that if there is a question in dispute, a legal question regarding any ballots, that the chief justice comes in as the fifth and deciding member of the board?—A. Any question that arises in the board whereby the board can't agree, they call in the chief justice in his capacity for the deciding vote.

Q. Now, I understand at the time this remark was made, Mr. Finigan, you had no objection to either Mr. Tague or Mr. O'Connell making examinations

there, but you did have objection, or you did object to this particular person?—A. Yes, sir.

Q. And your remark applied simply to him and his conduct?—A. It did.

Recross-examination by Mr. O'CONNELL:

Q. Didn't you, as a matter of fact, Mr. Finigan, take a piece of paper when I was examining that list and slam it down and cover the words "Dem." and "Rep."?—A. No.

Q. What?—A. No.

Q. Will you state anybody else did it?—A. No; I won't state anybody else did it, but I didn't.

Q. Do you recall seeing it done?—A. I do not.

Q. Do you recall that words "Dem." and "Rep." were covered?—A. I would say that they should be, and I believe they were.

Q. Aren't you the man who did this?—A. No; I am not.

Mr. CALLAHAN. That is all. That is all for to-day

Notary MANCOVITZ. We will adjourn until to-morrow morning at 11 o'clock.

(Adjourned until 11 a. m., Thursday, April 3, 1919.)

I, David Mancovitz, of Boston, county of Suffolk, Commonwealth of Massachusetts, a notary public duly commissioned under the laws of the Commonwealth of Massachusetts, hereby certify that the testimony herein contained of Patrick F. Goggin, Timothy F. Manning, Martin J. Turnbull, Frederick H. Pingree, William Taylor, Catherine T. Tague, Charles L. Burrill, Bernard J. Rothwell, Herbery H. Boynton, Jacob Wasserman, and Joseph L. Kane, who personally appeared before me and under oath gave testimony for the contestee in the contested-election case between Peter F. Tague, contestant, and John F. Fitzgerald, contestee, in the tenth Massachusetts congressional district, is a true transcript of the testimony taken before me on the 7th day of March, A. D. 1919, and on the 3d, 4th, 8th, and 15th days of April, A. D. 1919.

[SEAL.]

DAVID MANCOVITZ,
Notary Public.

MARCH 7, 1919.

Hearing held in room 443, Federal Building, Boston, Mass., March 7, 1919, at 10 a. m., before David Mancovitz, Esq., presiding, and Abraham C. Berman, Esq., as notaries public.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the petitioner; John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the respondent.

Notary MANCOVITZ. Are counsel ready to proceed in the hearing, Mr. Feeney?

Mr. FEENEY. Mr. Chairman, on the 21st day of February, 1919, the following notice was served upon Hon. Peter F. Tague by a deputy sheriff:

BOSTON, *February 21, 1919.*

HON. PETER F. TAGUE,

21 Monument Square, Charlestown, Mass.

DEAR SIR: Please take notice that Congressman-elect John F. Fitzgerald will begin the taking of testimony in answer to your petition of contest on Friday, March 7, 1919, at 10 a. m., in room 395, Federal Building, Boston.

This notice is given you so that you may be present if you desire at the taking of said testimony at the said time and place.

TIMOTHY F. CALLAHAN,
Attorney for John F. Fitzgerald.

A true copy. Attest:

DANIEL A. WHELTON,
Deputy Sheriff.

The return upon the same is as follows:

BOSTON, *February 21, 1919.*

SUFFOLK, ss:

I this day served the within notice upon the within named Hon. Peter F. Tague, by leaving at his last and usual place of abode, viz, No. 21 Monument Square, Charlestown district, Boston, the original notice, of which the within is a true and attested copy.

Fees: Service, \$1; copy, \$0.50; travel, \$0.30—\$1.80.

Daniel A. Whelton, deputy sheriff.

I offer this.

Notary MANCOVITZ. This may be marked as an exhibit.

Mr. FEENEY (continuing). In evidence.

(The notice, dated Boston, February 21, 1919, from Timothy F. Callahan, Esq., to Hon. Peter F. Tague, is admitted in evidence and marked "Contestee's Exhibit No. 1.")

Mr. FEENEY. Mr. Chairman, on March 6, 1919, the following notice was served upon Joseph F. O'Connell, Esq., attorney for Peter F. Tague, and the same was accepted. I will now read you the notice:

BOSTON, March 6, 1919.

JOSEPH F. O'CONNELL, Esq.,

Attorney for Peter F. Tague, Boston, Mass.

DEAR SIR: Pursuant to notice served on Peter F. Tague on February 21, 1919, notifying him that we would begin the taking of testimony in behalf of Congressman John F. Fitzgerald on Friday, March 7, 1919, we hereby further notify you that at the hearing to-morrow, Friday, March 7, 1919, at 10 a. m., at room 443 Federal Building, Boston, Hon. Martin M. Lomasney will testify.

Yours, truly,

TIMOTHY F. CALLAHAN,

VINCENT BROGNA,

Attorneys for John F. Fitzgerald.

Upon the back the following appears: "Service of within notice hereby accepted, Mar. 6, 1919, 10.55 a. m. Joseph F. O'Connell."

evidently being the time when they accepted service.

Notary MANCOVITZ. Mark it "Exhibit 2."

Mr. FEENEY. I offer that notice in evidence.

(The notice, dated Boston, March 6, 1919, of Timothy F. Callahan, Esq., and Vincent Brogna, Esq., to Joseph F. O'Connell, Esq., admitted in evidence and marked "Contestee's Exhibit No. 2.")

Mr. O'CONNELL. I want to call attention to the fact that we enter our protest against this notice, that it is not sufficient as required by law, and we are doing this simply because the other side have at all times interjected all kinds of technical objections, and in order that the record may appear clear I make that statement at the present time.

Notary MANCOVITZ. Your objection is noted. Have you made a statement or objection?

Mr. O'CONNELL. I am making an objection and a statement of the objection.

Notary MANCOVITZ. The objection will be noted.

Mr. FEENEY. In view of the objection that has been made, but more particularly because of other matters, I desire to say that Mr. Lomasney is here at the present time willing to testify. His examination indirect will take some time, and I have every reason to anticipate that cross-examination will take further time. I will be unable to be here to-day after half past 11. Therefore, I now serve upon my brother, Joseph F. O'Connell, the following notice:

BOSTON, March 7, 1919.

JOSEPH F. O'CONNELL, Esq.,

Attorney for Peter F. Tague, Boston, Mass.

DEAR SIR: We beg to inform you that testimony in behalf of Congressman John F. Fitzgerald will be taken on March 10, 1919, at 10 a. m., in room 443, Federal Building, Boston.

The Hon. Martin M. Lomasney will testify.

Yours, truly,

JOHN P. FEENEY,

TIMOTHY F. CALLAHAN,

VINCENT BROGNA,

Attorneys for John F. Fitzgerald.

Now, Mr. Chairman, in behalf of John F. Fitzgerald, I move that the hearing adjourn until Monday morning at 10 o'clock.

Notary MANCOVITZ. The motion is granted. I might say this, that in the future all hearings will be held in public, so that the public can have an opportunity of hearing and seeing what is going on, and I will ask counsel to confine themselves as near as possible to legal procedure. I intend to conduct these hearings with some form of legal procedure.

Mr. FEENEY. Now, before the hearing is formally closed, I ask to have made as part of this record a copy of the notice which I have read to Mr. O'Connell that I now offer in evidence.

Notary MANCOVITZ. Mark that as "Contestee's Exhibit No. 3."

(The letter, dated Boston, March 7, 1919, from Messrs. Feeney, Callahan, and Bregna, to Joseph F. O'Connell, Esq., is admitted in evidence and marked "Contestee's Exhibit No. 3.")

Notary MANCOVITZ. This hearing is adjourned until Monday morning at 10 o'clock in this room (Room 443).

(Hearing is adjourned to Monday, March 10, 1919, at 10 a. m.)

APRIL 3, 1919.

Testimony taken in rooms 443 and 447, Federal Building, Boston, Mass., Thursday, April 3, 1919, at 11.30 a. m., before David Mancovitz, Esq., presiding; Abraham C. Berman, Esq., notary, not present.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant; John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the contestee.

Mr. CALLAHAN. I would like to read into the record the notice for to-day's hearing.

BOSTON, April 1, 1919.

JOSEPH F. O'CONNELL, Esq.,

Attorney and Agent for Peter F. Tague, Boston, Mass.

DEAR SIR: Please take notice that on Thursday, April 3, at 11 o'clock a. m., and Friday, April 4, at 10 o'clock a. m., we shall examine the following witnesses before Hon. David Mancovitz, notary public, in the matter of the Tague-Fitzgerald election:

John H. Backus, Benjamin J. Scully, Christopher Gilhoni, Charles A. Bancroft, James A. Tighe, George A. Crockwell, Thomas J. Pyne, Charles A. Farrell, Asa P. Barker.

Addresses, United States marshal's office, Federal Building, Boston.

Will you please have on hand these days summonses or returns on summonses which have been introduced as exhibits?

Very respectfully,

TIMOTHY F. CALLAHAN,
Attorney for John F. Fitzgerald.

Service accepted, although received April 2 at 11.20 a. m.

JOSEPH F. O'CONNELL,
Attorney for Peter F. Tague.

Now, if Mr. O'Connell was here, I would like to ask him for these summonses that we requested him to bring. As he isn't here, I would like to ask those men associated with him if they have those summonses, so that we may inquire into them.

Mr. GOODWIN. Are your witnesses here, Mr. Callahan?

Mr. CALLAHAN. The witnesses are downstairs. I have arranged with the marshal, and I take it that it makes no difference whether the witnesses are here or not.

Notary MANCOVITZ. True, Mr. Callahan.

Mr. CALLAHAN. Because the summonses are in evidence, or, I think, it is alleged that they are in evidence, and that being the case, we have the right to examine into them without any witnesses. [Addressing Mr. Harrington.] Will you answer for Mr. O'Connell?

Mr. HARRINGTON. What?

Mr. CALLAHAN. My request for the summonses?

Mr. HARRINGTON. I do not know anything about that. Mr. O'Connell has that request.

Mr. CALLAHAN. If Mr. O'Connell hasn't the summonses here, I am perfectly willing to give Mr. O'Connell—

Mr. HARRINGTON. I understand he has got them.

Mr. CALLAHAN. Or his associates sufficient time to produce them.

Mr. HARRINGTON. I understand he has got them here. He will be right up in a minute. I went off last night looking up a title, and I haven't been in touch with the matter since last night.

Notary MANCOVITZ. Will you suspend a few minutes?

Mr. CALLAHAN. Yes.

Notary MANCOVITZ. We will suspend a few minutes.

(Short recess.)

• (The following proceedings were had in room 447:)

Mr. CALLAHAN. Are these the summonses, Mr. O'Connell?

Mr. O'CONNELL. Yes; those are the summonses.

Mr. CALLAHAN. Is there any way in which it can be shown that those were introduced as exhibits?

Mr. O'CONNELL. They all have been introduced as exhibits.

Mr. HARRINGTON. It is in the record.

Mr. O'CONNELL. They have all been introduced.

(Summonses handed to Notary Mancovitz.)

Notary MANCOVITZ. I suppose we can check off who testified.

Mr. O'CONNELL. What is the situation? What are you going to do?

Mr. CALLAHAN. I want to see the returns on all these summonses, Mr. O'Connell.

Mr. O'CONNELL. All right.

Notary MANCOVITZ. Mrs. Francis Aldus testified. There is no return on her summons.

Mr. O'CONNELL. Who is handling these summonses? What is the situation?

Mr. CALLAHAN. I am going to handle the summonses.

Mr. HARRINGTON. Why not handle them?

Mr. CALLAHAN. I will, if you give me time.

Notary MANCOVITZ. Do you want the summonses?

Mr. CALLAHAN. Yes.

(Summonses handed to Mr. Callahan by Notary Mancovitz.)

Mr. CALLAHAN. I would like the summons for Thomas F. Bowes.

Mr. O'CONNELL. Mr. Callahan informed me he is going to take half the day in putting these in. There is no examination to be had on them, as I understand it.

Mr. CALLAHAN. No.

Mr. O'CONNELL. Simply a matter of reading them into the record?

Mr. CALLAHAN. They are in evidence. I did not have the chance when they were put in to examine them.

Mr. O'CONNELL. Under those circumstances, there is no occasion for my staying here.

Mr. HARRINGTON. Will you be in touch?

Mr. O'CONNELL. Yes. If you need me, I will be in my office.

(Counsel O'Connell withdraws from room.)

Mr. HARRINGTON. We have not got it here. The marshal must have it. We haven't got it.

Mr. CALLAHAN. There is no return for the summons of Mr. Bowes?

Notary MANCOVITZ. No summons.

Mr. GOODWIN. Wait; wait a minute. We haven't got it.

Mr. HARRINGTON. The marshal may have it.

Mr. CALLAHAN. It isn't in evidence.

Mr. HARRINGTON. No.

Mr. CALLAHAN. All right. Just state that the summons for Mr. Bowes isn't in evidence, if there was one.

William J. Bonning. This is a summons for William J. Bonning. It shows that it was received at the marshal's office on the 19th of February at 12 o'clock. I suppose that is noon. Served by John H. Backus, deputy marshal, and was served by leaving at the last and usual place of abode. He was to appear on the 24th day of February. At this time I want to call attention to the fact that William J. Bonning's name was called on the 1st day of March by Mr. O'Connell. I think you will accept that, won't you? This is the record.

Mr. HARRINGTON. If our record corresponds to it, we will. What difference does it make when he was called?

Mr. TAGUE. What other day was he called?

Mr. CALLAHAN. We will try to determine that later on. Will you give me the summons for Edward J. Mulvehill? (Summons temporarily missing.)

James J. Lavin (summons temporarily missing).

Peter Dukelow (appeared and testified).

Michael O'Connor (this man appeared and testified).

Michael F. Durant (summons temporarily missing).

Moses Krovitz (summons temporarily missing).

Charles F. Gallagher (appeared and testified).

Philip J. Ahearn (summons temporarily missing),

Robert C. Smith (summons temporarily missing).

Charles M. Hollander, Hotel Vienna, to appear on the 4th day of March. It was received in the marshal's office on the 27th of February, at 12 a. m. At 12 noon. The summons was served by John H. Backus, deputy. Left in the hands of J. Birnstein, manager.

In the case of Hollander I want to call attention to the fact that his name was read in a list for March 1. I assume it was read the other time, too.

Mr. HARRINGTON. Read both times.

Mr. CALLAHAN. I simply want to have it for the record.

Charles A. Hart (summons temporarily missing).

Henry J. Fowler, Revere House. The summons was received in the marshal's office on the 27th of February, 1919, at 10.30 a. m.; served by John H. Backus, deputy, who certifies that he failed to find any last and usual place, and returns the summons without service.

James E. McGonagle (summons temporarily missing).

John Lomasney (summons temporarily missing).

John L. Smith (summons temporarily missing).

James F. Brown (summons temporarily missing).

Philip S. Doherty (summons temporarily missing).

Neil E. Callahan (summons temporarily missing).

Edward Clark (summons temporarily missing).

John R. Murray. This is a summons to John R. Murray. It was filed in the marshal's office February 28, at 11.30. Says "m." I suppose that means "a. m." It isn't open at night—the marshal's office. Eleven-thirty a. m. Served by Christopher Gilhoni, deputy, on the 28th of February, in the hands of the clerk of the United States Hotel, his last and usual place of abode.

Mr. HARRINGTON. And he was summoned for that date? The 5th of March?

Mr. CALLAHAN. Summoned for the 5th. The 4th is scratched out and 5th inserted.

Mr. HARRINGTON. A lot of those names just the same way.

Mr. CALLAHAN. His name was on the list for the 1st of March and was read into the record.

Frank C. Hyde. This is a summons to Frank C. Hyde, 115 Brown Street, Brookline. It was received in the marshals' office on the 25th of February at 11.15 a. m. It was served on the 27th of February, 1919, at his last and usual place of abode, Brookline.

I would like to call attention to the fact that this summons was served outside the county. I think that is the 1st of March [handing summons to Mr. Harrington], meant to be the 1st of March.

Mr. HARRINGTON. The 4th.

Mr. CALLAHAN. The 4th. Summons for the 4th of March. I do not see how you can make that the 4th. It is on the list. His name is on the list for the 1st of March, which was read into the record by Mr. O'Connell.

John F. Beatty. This is a summons to John F. Beatty at the Hotel Bellevue.

Mr. HARRINGTON. For what date?

Mr. CALLAHAN. The 4th is written in in ink, and erased. Then the 6th of March written in. The summons was received in the marshal's office on the 27th of February at 10.30 a. m. It was served the first day of March, 1919, by James A. Tighe, deputy, by leaving in the mail box at 1402 Commonwealth Avenue, his last and usual place of abode.

James McCaffery. In the case of John F. Beatty, his name was read into the records on the 4th day of March. Was called on the 4th of March.

Mr. HARRINGTON. Called, later, too.

Mr. CALLAHAN. Well, let that develop. He was called on the 4th day of March to testify.

James McCaffery, summoned to appear on the 4th day of March. The summons was received in the marshal's office on the 27th of February at 10.30 a. m. The summons was returned by John H. Backus, deputy, without service. (Long colloquy.)

Mr. HARRINGTON. It says, "Failed to find at any last or usual place of abode." That applies to the last one, James F. McCaffery.

Mr. CALLAHAN. John W. Campbell, 33 Lynde Street, was summoned to appear on the 4th day of March, at 9.30 o'clock in the forenoon. The summons was received in the marshal's office at 10.30 a. m., February 27, 1919. It was served that day in the hands of Nora Sullivan, housekeeper, at last and usual place of abode, 33 Lynde Street.

Thomas H. Corcoran, Derby House, summoned to appear at 9.30 in the forenoon on the 4th day of March. The summons was received in the marshal's office at 10.30 a. m., February 27. It was served on the 28th of February by John H. Backus, deputy sheriff. It was left in the hands of George W. Hill, manager, his last and usual place of abode. He was called on the 4th.

Alloycius J. Craig, summoned to appear on the 4th day of March, at 9.30 in the forenoon. The summons was received in the office of the marshal at 10.30 a. m., the 27th of February. It was returned on the 27th of February by John H. Backus, deputy, "Made diligent search and fail to find in last and usual place of abode. Return subpœna without service."

Mr. HARRINGTON. Here is another one for the same.

Mr. CALLAHAN. Alloycius J. Craig. This is C-r-e-g-g. Summoned to appear on the 5th day of March, at 9.30 in the forenoon. It was returned without service by John H. Backus, deputy. Received in the marshal's office on the 28th of February, 11.30 a. m. He was called on the 5th; likewise called on the 4th.

Daniel H. Crowley. Summons to Daniel J. Crowley to appear on the 4th day of March at 9.30 o'clock in the forenoon. The summons was received in the office of the marshal on the 27th of February, at 10.30 a. m. Returns made by John H. Backus, deputy, who returned the subpœna without service, failing to find at last and usual place of abode.

George H. Connor.

Mr. HARRINGTON. One from the Derby House and one from the New England House.

Mr. CALLAHAN. Summons to George H. Connor, Revere House, to appear on the 4th of March at 9.30 o'clock in the forenoon. Received in the marshal's office on the 27th of February at 10.30 a. m. The subpœna returned without service by John H. Backus, deputy. Failed to find at last and usual place of abode.

Henry J. Fowler. This is a summons to Henry J. Fowler to appear on the 1st of March at 9.30 o'clock in the forenoon. Returned by Thomas J. Pyne, deputy; return of subpœna without service. Failed to find him in the district.

John H. Doherty, summoned to appear on the 4th day of March at 9.30 o'clock in the forenoon. Received in the office of the marshal the 27th of February, at 10.30 a. m. Subpœna returned by John H. Backus, deputy, without service. Failed to find any last and usual place of abode.

John Doherty, 30 Causeway Street, summoned to appear on the 4th of March at 9.30 o'clock in the forenoon. Subpœna returned by John H. Backus, deputy, without service. Failed to find any last and usual place of abode.

Irving P. Dodge, 91 Court Street, summoned to appear the 4th of March at 9.30 o'clock in the forenoon. Summans received in the marshal's office the 27th of February, at 10.30 a. m. Subpœna returned by John H. Backus, deputy, without service, and the date of the return is the 28th of February, 1919.

Marchiano De Pisa, summoned to appear on the 4th of March at 9.30 in the forenoon. Summons received in the marshal's office at 10.30 a. m., the 27th of February. Return made by John H. Backus, deputy, without service. Failed to find or any at last and usual place of abode.

Ruggiro De Pisa (record shows he did not respond, but came in, at later time). This is a summons to Ruggiro De Pisa to appear on the 4th day of March at 9.30 o'clock in the forenoon. Return by John H. Backus, deputy, without service. Failed to find, or any last and usual place of abode. It is agreed that Ruggiro De Pisa appeared and testified.

Patrick F. Comber, summoned to appear on the 4th day of March at 9.30 o'clock in the forenoon. The summons was received in the marshal's office, February 27th at 10.30 a. m. Returns made by John H. Backus, deputy, the 27th of February, stating that on the 28th he left at this place, last and usual place of abode, a true and attested copy of this subpœna.

Charles D. Celeste, summoned to appear the 4th day of March at 9.30 o'clock in the forenoon. Return made by John H. Backus on the 27th. Subpœna left at his last and usual place of abode. Received at the marshal's office at 10.30, the 27th.

Orlando Cochrane, summoned to appear the 4th day of March at 9.30 in the forenoon. The summons was received in the marshal's office on the 27th of February, at 10.30 a. m. Return made by John H. Backus, deputy, without service. Failed to find, or usual place of abode.

Hugh Cannon, summoned to appear the 4th day of March at 9.30 o'clock in the forenoon. Received at the marshal's office the 27th, at 10.30 a. m. Re-

turn made by John H. Backus, deputy marshal, without service. Failed to find and any last and usual place of abode.

William C. Campbell, summoned to appear the 4th day of March, 1919, at 9.30 in the forenoon. Received on the 27th of February, in the marshal's office at 10.30 a. m. Returned by John H. Backus, deputy, without service. Failed to find, and last and usual place of abode.

John F. Finnegan, summoned to appear the 4th of March at 9.30 in the forenoon. Summons received in the marshal's office the 27th of February, at 10.30 a. m. Return dated the 28th of February, 1919, by John H. Backus, deputy, who said that on this day, the 28th, he made diligent search and returns the subpoena without service. Failure to find, and last and usual place of abode.

Hugh F. Granger, summoned to appear the 4th of March at 9.30 in the forenoon. Received in the marshal's office the 27th of February at 10.30 a. m. Return dated the 28th of February, by John H. Backus, deputy, without service. Returned without service. It states that on the 28th, failed to find, or any last and usual place of abode.

Charles J. McCarthy? Is it agreed Charles J. McCarthy, Daniel J. McCarthy, and Thomas A. McCarthy all testified?

Mr. HARRINGTON. Yes.

Mr. CALLAHAN. And Jack McCarthy testified, too.

The next one, Jeremiah F. Mahoney, summoned to appear on the 4th of March at 9.30 in the forenoon. Summons received in the marshal's office on the 27th of February, at 10.30 a. m. Summons left at the Merrill House, the last and usual place of abode, on the 28th of February, 1919.

Mr. GOODWIN. In the hands of Mrs. Cavitchi.

Mr. CALLAHAN. Martin Manning, summoned to appear on the 4th of March at 9.30 o'clock in the forenoon. Summons received in the marshal's office the 27th of February at 10.30 a. m. Returned by John H. Backus, deputy marshal, without service; failed to find, or any last and usual place of abode.

Louis Manovitz, summoned to appear on the 4th of March at 9.30 o'clock in the forenoon. Received at the marshal's office the 27th of February at 10.30 a. m. Return on the 27th, by John H. Backus, deputy, without service. Failed to find, or any last and usual place of abode.

Haman S. Marks, summoned to appear on the 4th of March, 9.30 in the forenoon. Received in the marshal's office the 27th of February, at 10.30 a. m. Returned by John H. Backus, deputy marshal, without service. On the back he has got "Herman." Returned without service. Failed to find, or any last and usual place of abode.

Charles E. Maynard, summoned to appear the 4th of March at 9.30 in the forenoon. Summons received in the marshal's office, 27th of February, at 10.30 a. m. Returned by John H. Backus, deputy marshal, without service. "Made search on the 28th of February, failed to find any last or usual place of abode."

Frank S. Moylan, summoned to appear on the 4th of March at 9.30 in the forenoon. Received in the marshal's office the 27th of February at 10.30 a. m. Service on the 27th of February by leaving at his last and usual place of abode, 35 Billerica Street, in the hands of his mother. Summoned from 35 Billerica Street.

Francis E. Murphy, summoned to appear on the 4th of March at 9.30 o'clock. Summons received in the marshal's office the 27th of February at 12 o'clock noon. Returned by John H. Backus, deputy marshal, showing the subpoena was left at the last and usual place of abode, the Lincoln House, in the hands of William Dempsey, in charge of the premises.

Notary MANCOVITZ. Recess until 2.15 o'clock.

(Noon recess.)

AFTERNOON SESSION.

(Proceedings started at 2.30 p. m., in the absence of Notary Mancovitz.)

Mr. CALLAHAN. William J. Murphy, summoned for the 4th of March at 9.30 o'clock in the forenoon. The summons was received in the marshal's office on the 27th of February at 10.30 a. m. Return made by John H. Backus, without service. Fail to find or any usual place of abode.

Richard A. Roche, called for the 4th, summoned to appear on the 4th of March, at 9.30 o'clock in the forenoon. The notice was received in the marshal's office the 27th of February, at 10.30 a. m. Returned by John H. Backus, deputy marshal, without service. Failed to find or any usual place of abode.

Joseph Santossuosso, summoned to appear the 4th of March at 9.30 in the forenoon. Returned by John H. Backus, deputy marshal, in which he says that

on the 28th day of February he served this subpoena by leaving at the Quincy House a true and attested copy of this subpoena.

Daniel J. Sullivan, summoned for the 4th of March, 9.30 in the forenoon. Summons received in the marshal's office the 27th of February, at 10.30 a. m. Returned by John H. Backus, deputy, dated February 28, 1919. The subpoena returned without service. Fail to find or any last and usual place of abode.

William E. Sullivan, summoned for March 4. Received in the marshal's office February 27, 1919, at 10.30 a. m. Returned by John H. Backus, deputy marshal, left at his last and usual place of abode on February 27, 1919.

Mr. BROGNA. William J. Sullivan, summoned to appear March 4. Summons received in the marshal's office at 10.30 a. m., February 27, and returned by John H. Backus, deputy marshal, leaving at his last and usual place of abode on February 27.

Anthony Valente.

(Notary Mancovitz enters hearing at 2.40.)

Summoned to appear March 4. Received in the marshal's office February 27, at 10.30 a. m. Returned by John H. Backus, deputy, without service, having failed to find or his last and usual place of abode.

John J. Larkin, summoned to appear March 4. Received in marshal's office February 7, at 10.30 a. m. Returned by Christopher Gilhoni by leaving at his last and usual place of abode, 11 Paisley Park, Dorchester, in the hands of Rose Kivlan, on February 27.

Timothy J. McKeon, summoned to appear March 4. Returned by Christopher Gilhoni, deputy marshal, in hand, February 27.

Charles W. Murphy, summoned to appear March 4. Received in marshal's office February 27 at 10.30. Returned by Christopher Gilhoni, deputy marshal, leaving in the hands of Elizabeth Quick, 12 Wales Street, last and usual place of abode.

Francis A. Crowley, summoned to appear March 4. Received in the marshal's office February 27. No time given. Returned by Christopher Gilhoni, deputy marshal, February 27, in hand.

Daniel J. McGrath, summoned to appear March 4. Received in the marshal's office February 27 at 10.30. Returned by Charles A. Farrell, deputy marshal, without service, having failed to find him or last and usual place of abode.

Hugh McGrath, summoned to appear March 4. Summons received in the marshal's office February 27 at 10.30 a. m. Returned by Charles A. Farrell, deputy marshal, without service, having failed to find him.

Francis Dowd. (It is agreed that Francis J. Dowd appeared and testified.)

John F. Walsh, summoned to appear March 4. Summons received in marshal's office on February 27 at 10.30. Returned by Thomas J. Pyne, deputy marshal, leaving at his last and usual place of abode, February 27, 1919.

John J. Sullivan, summoned to appear March 4. Summons received in marshal's office February 27 at 10.30. Returned by Thomas J. Pyne, deputy marshal. Last and usual place of abode, 4 Thornton Place, Roxbury, February 27.

Charles Smulovitz, summoned to appear March 4. Summons received in marshal's office February 27 at 10.30. Returned by Thomas J. Pyne, deputy marshal, leaving in hands of wife, 157 Highland Street, Roxbury, February 27.

Charles F. Day, summoned to appear March 4. Returned by Thomas J. Pyne, deputy marshal. Failed to find. No service.

Leo P. Doherty, summoned to appear March 4. Returned by John H. Backus, deputy marshal, without service. Failure to find or any last and usual place of abode.

Thomas G. Sheridan, summoned to appear March 4. Summons received in marshal's office February 27, 1919, at 10.30 a. m. Returned by Thomas J. Pyne, deputy marshal, service in hand, February 27, 1919.

Thomas J. Sheridan, summoned to appear March 4. Summons received in marshal's office at 10.30 a. m. Returned by Thomas J. Pyne, deputy marshal, in hand, service, February 27.

John T. Leonard, summoned to appear March 6. Received in the marshal's office February 27. Returned by George A. Crockwell, deputy marshal, leaving at his last and usual place of abode, 132 Boston Avenue, Somerville, on March 1.

John F. Leonard, summoned to appear March 4. Summons received in marshal's office February 27, 10.30. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Samuel Kravitz, summoned to appear March 4. Summons received in marshal's office February 27 at 10.30. Returned by John H. Backus, without service, having failed to find him or any last or usual place of abode.

Wolfe Kravitz, summoned to appear March 4. Summons received in the marshal's office February 27 at 10.30. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Otto Keller (no summons presented).

Richard L. Lombard, summoned to appear March 4. Summons received in marshal's office February 27, and returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Frank P. Light, summoned to appear March 4. Summons received in marshal's office February 27 at 10.30. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Frank J. Callahan, summoned to appear March 5. Summons received in marshal's office February 27. Summons returned by James A. Tighe, deputy marshal, without service, having failed to find him after diligent search in Cambridge.

Park P. Wile, summoned to appear March 5. Summons received in marshal's office February 27 at 6.30 p. m. Returned by Thomas J. Pyne, deputy marshal, without service, having failed to find him. Summoned for the 5th and was called on the list for the 4th.

John J. Cuneo, summoned to appear March 4. Received in the marshal's office February 27, at 2.30. Returned by Benjamin J. Scully, deputy marshal, service in hand on February 28.

Michael J. Crosson, summoned to appear on the 4th. Summons received February 27, 1919, at 10.30. Returned by Benjamin J. Scully, deputy marshal, leaving at his last and usual place of abode in the hands of his mother, on February 28.

Thomas F. Daley, summoned to appear March 4. Summons received in the marshal's office February 27, 1919, at 10.30. Returned by Benjamin J. Scully, deputy marshal, leaving with his brother at last and usual place of abode, February 28.

Edison F. Sawyer, summoned to appear March 4. Summons received in marshal's office February 27 at 10.30. Returned by Benjamin J. Scully, without service; failed to find.

Henry Grey, summoned to appear March 4. Summons received in marshal's office February 27, at 10.30. Returned by Thomas J. Pyne, deputy marshal, without service, having failed to find him at the address given.

Patrick H. Sheehan, summoned to appear March 4. Summons received in the marshal's office February 27, 1919, at 10.30. Returned by Thomas J. Pyne, leaving in the hands of wife at 40 Hall Street, Jamaica Plain, February 27.

William J. Sheehan, summoned to appear on the 4th. Summons received at the marshal's office February 27. Returned by James A. Tighe, deputy marshal, without service, having failed to find him in the district.

Patrick J. McNulty, summoned to appear March 4. Summons received at the marshal's office February 27, at 10.30 a. m. Returned by Benjamin J. Scully, deputy marshal, without service, having made diligent search at Beachmont.

Francisco de Pisa, summoned to appear on the 4th of March. Summons received in the marshal's office February 27, at 10.30. Returned by Benjamin J. Scully, deputy marshal, in hand, February 28. Doctor's certificate was sent by him.

John J. Grant, summoned to appear March 4. Summons received in the marshal's office February 27, at 10.30. Returned without service by Benjamin J. Scully, having failed to find him at Revere.

Bernard E. Grant, summoned to appear March 4. Summons received in marshal's office February 27, at 10.30. Returned without service, having failed to find him at Revere. Deputy Marshal Benjamin J. Scully.

Daniel J. McLaughlin, summoned to appear March 4. Summons received in marshal's office February 27. Returned by Benjamin J. Scully, deputy marshal, without service, having failed to find him.

Edward P. Clark, summoned to appear March 4. Summons received in marshal's office February 27. Returned by Benjamin J. Scully, deputy marshal, service in hands of a tenant, at 14 Wood Street, Charlestown, on February 27.

John F. Corcoran, summoned to appear March 4. Summons received in marshal's office February 27, 1919, at 10.30 a. m. Returned by Benjamin J. Scully, deputy marshal, without service, having failed to find him.

John E. Fitzgerald, summoned to appear on the 4th of March. Summons received in marshal's office February 27, at 10.30. Returned by Benjamin J. Scully, deputy marshal, leaving in the hands of his mother, Christine Fitzgerald, 13 Monument Street, Charlestown, on February 27.

John F. Leonard, already accounted for.

James Lang, summoned at 36 Billerica Street or 309 Medford Street, Somerville. Summoned to appear March 4. Summons received in the marshal's office February 27, at 10.30. Returned by George A. Crockwell, deputy marshal, without service, having failed to find him. "Pursuant hereto I have made diligent search for the within-named James Lang at 309 Medford Street, Somerville, and failed to find him, and I have reason to believe that he is not in this district. Therefore, I return his subpoena without service."

Daniel P. McCarron, summoned to appear March 4. Summons received in the marshal's office February 27, at 10.30. Returned by George A. Crockwell, deputy marshal, at last and usual place of abode, 100 Princeton Street, Medford, in the hands of wife on February 27.

Roden Harrison, summoned to appear March 4. Summons received in marshal's office February 27, at 12 o'clock noon. Returned by John H. Backus, deputy marshal, leaving at last and usual place of abode, at Revere House, in hands of Fred K. Clontman, on February 27.

The following is indorsed on the face of summons: "Bring with you register of Revere House for the days from March 24 to April 7, 1919."

Herbert W. Pike, summoned to appear March 4. Summons received in marshal's office February 27, at 12 o'clock noon. Returned by John H. Backus, deputy marshal, without service, having made diligent search and failed to find him or any last and usual place of abode. The following is indorsed on face of summons: "Bring with you register of Merrill House for the days from March 24 to April 7, 1919."

John W. Hall, intended for George W. Hill, who appeared and testified.

Joseph Kraft, summoned to appear March 4. Summons received in marshal's office February 27, at 12 o'clock noon. Returned by John H. Backus, deputy marshal, last and usual place of abode, Hotel Haymarket, in hands of J. D. Chisholm, clerk, on February 27, indorsed on face of summons: "Bring with you the register of the Hotel Haymarket for the days from March 24 to April 7, 1919."

Thomas Petrick, noted as "Subject to call," appeared and testified.

William R. Gallagher, appearing as "No response," appeared and testified.

Simon Morse, appearing as "No response," later appeared through his brother, Morris Morse, with the hotel register.

John S. Bonnia, summoned to appear March 4. Summons received in marshal's office February 27, at 12 o'clock noon. Returned by John H. Backus, deputy marshal, at his last and usual place of abode, Hotel Cooledge, in the hands of E. J. Collins, clerk, February 28, indorsed on face of summons: "Bring with you register of Hotel Cooledge for the days from March 24 to April 7, 1919."

J. Henry Breslin, summoned to appear March 4. Summons received in marshal's office February 27, at 12 o'clock noon. Returned by John H. Backus in hand, indorsed on face of summons: "Bring with you register of Blackstone Hotel for days of March 24 to April 7, 1919."

Cyrus N. Campbell, summoned to appear. Blank. Summons received in marshal's office February 27, 1919, at 12 o'clock noon. Returned by John H. Backus, leaving at his last and usual place of abode, Hotel Central, in hands of H. M. Whaley, on February 28, indorsed on face of summons: "Bring with you the register of Hotel Central for the days from March 24 to April 7, 1919."

Charles M. Hollander, summoned to appear March 1. Previously called by mistake. Handed a summons returnable the 4th. He was summoned for the 1st. Summons for the 1st now appears to have been received by the marshal's office on February 25, 1919, at 11.15, left at his last and usual place of abode with his brother, Cyril Hollander, 37 Leverett Street, on February 25.

Summons for the 4th of Charles M. Hollander. Summons received by the deputy marshal February 27, 1919, at 12 m. John H. Backus makes service by leaving at his last and usual place of abode, Hotel Vienna, in hands of J. Bernstein, manager. The face of summons says: "Bring with you the register of Hotel Vienna for the days from March 24 to April 7, 1919."

Samuel P. Devine. The name Samuel P. Devine marked "No response." No summons has been located.

Frank E. Murphy, summoned to appear March 4. Summons received in marshal's office February 27, at 10.30. Returned by John H. Backus without service, having failed to find him or last or usual place of abode.

C. H. Dearborn, summoned to appear March 4. Summons received in marshal's office February 27, at 12 o'clock noon. Returned by John H. Backus, deputy marshal, leaving at Hôtel Royal in hands of John W. Norton, clerk, on February 28, indorsed on face of summons: "Bring with you the register of Hotel Royal for the days from March 24 to April 7, 1919."

Thomas McNally, summoned to appear March 4. Summons received in marshal's office February 27, at 12 o'clock noon, and returned by John H. Backus, deputy marshal, in hand, February 27. The face of summons is indorsed as follows: "Bring with you the register of your house for the days from March 24 to April 7, 1919."

Thomas F. Bower, summoned to appear March 1. Summons received at the marshal's office February 25, at 11.15 a. m. Returned by Charles A. Farrell, deputy marshal, by giving in hand to Thomas F. Bower, on February 25.

John S. Moylan, summoned to appear March 1. Summons received in marshal's office on February 25, 11.15 a. m. Returned by Charles A. Bancroft, deputy marshal, at last and usual place of abode, rear of 14 Causeway Street, in the hands of aunt, Mrs. Upton, on February 25.

Edward J. Mulvehill, summoned to appear on March 1. Summons received in marshal's office February 25, 11.15 a. m. Returned by Thomas J. Pyne, deputy marshal, without service, having failed to find him in my district.

James J. Lavin, summoned to appear March 1. Summons received in marshal's office February 25, 1919, no time. Returned by Thomas J. Pyne, deputy marshal, leaving under the door at 28 Redman Street, Jamaica Plain, last and usual place of abode, February 25.

Moses Krovitz, summoned to appear on March 1. Summons was received in marshal's office February 25, 1919, at 11.15 a. m. Returned by Charles A. Bancroft, without service. Diligent search at various places in Boston and elsewhere and couldn't find him, February 25.

Michael F. Durant, summoned to appear March 5. Summons received in marshal's office February 25, at 11.15 a. m. Returned by Charles A. Bancroft, without service. Diligent search at 37 Billerica Street and couldn't find him.

Philip J. Ahearn, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by Charles A. Bancroft, deputy marshal, last and usual place of abode in hands of his mother, on February 25.

Robert C. Smith, summoned to appear March 1. Summons received in marshal's office February 25, 1919, at 11.15 a. m. Returned by Charles A. Bancroft, in hand, February 25.

Henry J. Fowler, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by Thomas J. Pyne, without service; failed to find him. Dated February 27.

James E. McGonnagle, summoned to appear March 1. Summons received in marshal's office February 25, 11.15 a. m. Returned by Charles A. Farrell, leaving in hands of Thomas H. Smith, janitor, 93 Binney Street, last and usual place of abode, February 25.

John Lomasney, summoned for March 1, 1919. Summons received in marshal's office February 25, 11.15 a. m. Returned by Charles A. Bancroft, deputy marshal, without service. Searched various places and couldn't find him.

John L. Smith, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by Charles A. Bancroft, deputy marshal, without service. Diligent search at 19 Causeway Street.

James F. Brown, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by James A. Bancroft, deputy marshal, leaving at last and usual place of abode, in the hands of proprietor of Hotel Lucerne.

Philip I. Doherty, summoned to appear March 1. Summons received in marshal's office February 25, 1919, at 11.15 a. m. Returned by Christopher Gilhoni, deputy marshal, leaving in hands of James Greatoris, at 195 Main Street, Charlestown, last and usual place of abode.

Neil E. Callahan, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by Charles A. Bancroft,

deputy marshal; returned without service. Searched various places and could not find him.

Edward Clark, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by Charles A. Farrell, deputy sheriff, leaving in hands of Charles Christie, clerk, Hotel Brewster, last and usual place of abode, February 25.

William J. Bonning, summoned to appear March 1. Summons received in marshal's office February 25, 1919, no time. Returned by Thomas J. Pyne, deputy marshal, leaving in hands of wife, on February 25.

Frank C. Hyde, summoned to appear and appearing on list of March 1. Summons received in marshal's office February 25, 1919, at 11.15 a. m. Returned by Charles A. Farrell; service in hands of his mother, at 115 Brown Street, Brookline, last and usual place of abode, on February 27.

Charles F. Gallagher, appearing on list of March 1. Summons not produced.

Michael J. Fitzgerald, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by James A. Tighe, deputy marshal, leaving at police station 16, last and usual place of employment, on February 25, 1919.

Charles E. Hart, summoned to appear March 1. Summons received in marshal's office February 25, 1919, at 11.15 a. m. Returned by Thomas J. Pyne, deputy marshal, without service, February 27.

John R. Murray, summoned to appear March 1. Summons received in marshal's office February 25, at 11.15 a. m. Returned by Charles A. Bancroft, deputy marshal, in hand, February 25.

Samuel P. Devine, appearing on list of March 4; summons not produced.

(Adjourned to 10 a. m., Friday, April 4, 1919.)

APRIL 4, 1919.

Meeting held in room 447, Federal Building, Boston, Mass., Friday, April 4, at 10 a. m., before David Mancovitz, Esq., notary public. Abraham C. Berman, Esq., notary public, absent.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant; John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the contestee.

Mr. BROGNA. Mr. Mancovitz is not here, but I suppose we can go along without him.

Mr. GOODWIN. We do not make any objection.

Mr. BROGNA. There is nothing to do but put in summonses now. That can be done without rulings.

William H. Hart, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 2.30 p. m. Returned by Thomas J. Pyne, deputy marshal, leaving at United States Hotel, last and usual place of abode, on February 28, 1919.

Joseph F. Howard, summoned to appear March 6. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, in hand, March 1.

Alfred R. Rudd, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Charles A. Bancroft without service, being unable to find him or any such address as 41 Batana Street, and after diligent search at 177 Endicott Street.

Michael J. Bonner, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Christopher Gilhoni, deputy marshal, by leaving in hands of Ellen Doherty, 12 Mount Vernon Street, Boston, last and usual place of abode on February 28. On face of summons appears the addresses 93 Endicott Street and 12 Mount Vernon Street.

Martin A. O'Hara, summoned to appear March 5th. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Thomas J. Pyne, deputy marshal, without service. Failed to find him at 66 Bowdoin Street, Boston. The face of summons bears addresses 66 Bowdoin Street and 200 Dudley Street.

James H. Cronin, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by John H. Backus, deputy marshal, without service. Failed to find him or any last or usual place of abode.

Stephen J. Casey, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by John H. Backus without service. Failed to find him or any last and usual place of abode.

Herbert W. Boylan, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Mathias H. Casey, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service. Unable to find him or any last and usual place of abode.

Robert L. Wiseman, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service, having been unable to find him or any last and usual place of abode. Diligent search made at 54 Howard Street.

Bernard J. Fitzgerald, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service. Could not find him or any last and usual place of abode. Diligent search at 66 Bowdoin Street and 34 Fresno Street, Roslindale.

Walter H. Lockman (summons not produced).

Thomas F. Coffey, summons issued to appear March 5, received in marshal's office February 28 at 2.30 p. m. Returned by Christopher Gilhoni, deputy marshal, leaving in the hands of B. F. Gibbons, 123 Monument Street, Charlestown, on February 28, 1919. Addresses on face of summons: 38 Wendall Street and 23 Monument Street, Charlestown.

William A. Farrell, summoned to appear March 5. Summons received in marshal's office February 28 at 2.30 p. m. Returned by Christopher Gilhoni, deputy marshal, leaving at 39 Washington Street, Charlestown, on February 28, 1919. Face of summons bears addresses, 93 Endicott Street and 39 Washington Street, Charlestown.

John A. Riley, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 2.30 p. m. Returned by Christopher Gilhoni, deputy marshal, in hand, February 28.

Leonard Baer, summoned to appear March 5. Summons received in marshal's office February 28, 2.30 p. m. Returned by Thomas J. Pyne, deputy marshal, without service; failed to find him at Young's Hotel. On the face of summons appears addresses, Young's Hotel and Van Nostrand's, Charlestown.

Thomas J. Murphy, appearing on list as "No response," later appeared and testified.

Thomas Walsh, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him at Hotel Central, and failed to find any last and usual place of abode.

Louis Locke, appearing as "No response," appeared and testified.

William H. Kelley, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Morris Goldberg, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving at his last and usual place of abode, 128 Court Street, in hands of S. Herson, clerk, on February 28, 1919.

Isaac Gordon, summoned to appear March 4. Summons received in marshal's office February 27, at 10.30 a. m. Returned by deputy marshal, leaving in hands of wife at 7 Melton Road, Brighton, his last and usual place of abode, on February 27. The face of summons bears addresses as follows: 128 Court Street and 7 Melton Road, Brighton.

Isaac Gordon again summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, deputy marshal, leaving at last and usual place of abode, 128 Court Street, in hands of St. Herson, clerk, on February 28, 1919.

William H. Hennessy, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by Christopher Gilhoni, deputy marshal, by leaving in hands of John Reynolds, assistant clerk, Hotel Rossmore, last and usual place of abode, February 28.

Charles K. Di Fatta, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

George W. Cowan.

(Notary Mancovitz arrived at 10.40.)

Summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having been unable to find him or any last and usual place of abode.

William Kilfoye, summoned to appear March 5. Summons received in marshal's office February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service, after diligent search at 14 Chambers Street.

John W. Riley, summoned to appear March 5. Summons received in marshal's office February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service, after diligent search at 54 Howard Street, Boston. Unable to find him or any last and usual place of abode.

Thomas F. Sullivan, summoned to appear March 5. Summons received in marshal's office February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service, being unable to find him after diligent search at 54 Howard Street, Boston.

Edward A. Skelly, summoned to appear March 6. Summons received in marshal's office on February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, in hand, March 1. His name appears on the list of March 5. The face of summons is erased and appears "March 6."

(Notary Mancovitz leaves room at 10.45.)

Arthur J. Lee, summoned to appear March 5. Summons received in marshal's office February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service. Diligent search at 54 Howard Street, and unable to find him, or last and usual place of abode. Face of summons carries address, 24 Chambers Street and 61 Cedar Street.

Frank J. Raesley, summoned to appear March 5. Summons received in marshal's office February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, without service. Diligent search at Quincy House. Couldn't find him or last and usual place of abode.

Joseph J. Vincent, summoned to appear March 5. Summons received in marshal's office February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, leaving at last and usual place of abode, 171 Charles Street, in hands of mother. Face of summons bears address, 357 Cambridge Street and 171 Charles Street.

Edward S. Humphreys, summoned to appear March 5. Summons received in marshal's office February 28, at 2.30 p. m. Returned by Charles A. Bancroft, deputy marshal, leaving at last and usual place of abode at 367 Charles Street, in hands of brother, February 28. Addresses on face of summons, 367 Charles Street and Engine 6, Leverett Street.

Joseph Riley, summoned to appear March 5. Summons received in marshal's office February 28, at 12.30 p. m. Returned by Christopher Gilhoni, deputy marshal, by leaving in hands of Mr. Lynch, clerk of Young's Hotel, last and usual place of abode, on February 28.

Moses Caplan, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving at Quincy House, in hands of Thomas J. Murphy, manager, on February 28.

Samuel Vining, summoned to appear March 5. Summons received in the marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service. Unable to find him or last and usual place of abode. Face of summons appears to be "Samuel Rinig.". Address, Windsor Hotel.

Dennis F. McCarthy, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service. Diligent search failed to find him or any last and usual place of abode.

Joseph Cosgrove, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, after diligent search failed to find him or last and usual place of abode.

Edward M. Sullivan, summoned to appear March 5. Received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving in hands of Thomas J. Murphy, manager Quincy House, on February 28.

Edward A. Skelley, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, service, leaving in the hands of Thomas J. Murphy, manager of

Quincy House, on February 28, 1919. This is the same Edward A. Skelly who was served in hand as hereinbefore stated.

Bernard Sears, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, service, by leaving in the hands of Thomas J. Murphy, manager, Quincy House, on February 28. He appeared one day and said he would call when telephoned to. Did not appear thereafter.

Antonio Raneri, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, service in hands of Thomas J. Murphy, manager of Quincy House, on February 28, 1919.

William J. Murphy, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving in hands of Thomas J. Murphy, manager Quincy House, February 28, last and usual place of abode.

Patrick J. Fallon, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

George Fallon, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Frank J. Hennick, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Martin F. Lee, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Luke McDermott, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving at Hotel Lincoln, in hands of William Dempsey, clerk, on February 28.

James J. McNulty, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 11.30 a. m. Returned by John H. Backus, deputy marshal, service in the hands of William Dempsey, clerk, Hotel Lincoln, February 28.

Sylvester J. Twohy, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or last and usual place of abode.

Walter I. Brown, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, without service, having failed to find him or any last and usual place of abode.

Michael L. Caples. Summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus by leaving in the hands of Thomas J. Murphy, manager of Quincy House, on February 28.

Philip L. Caples. Summoned to appear March 5. Summons received in marshals' office February 28, 1919, at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving in the hands of Thomas J. Murphy, manager of Quincy House, on February 28.

Patrick H. Conley, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving in the hands of Thomas J. Murphy, manager of Quincy House, February 28.

James J. Cunningham, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, by leaving in the hands of Thomas J. Murphy, manager, Quincy House, on February 28.

Edward J. McManus, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving in the hands of Thomas J. Murphy, manager, Quincy House, on February 28.

John A. McLaughlin, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy

marshal, by leaving in hands of Thomas J. Murphy, manager, Quincy House, February 28.

Frank M. Frost, summoned to appear March 5. Summons received in marshal's office February 28 at 11.15 a. m. Returned by John H. Backus, deputy marshal, by service in the hands of Thomas J. Murphy, manager of Quincy House, February 28.

Patrick H. Kane, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving in hands of George W. Hill, manager of Derby House, on February 28.

Augustus O. Corbett, summoned to appear on March 5. Received in marshal's office February 28, 1919, at 11.30 a. m. Returned by John H. Backus, deputy marshal, by leaving in the hands of Mrs. Cavichi, clerk of the Merrill House, February 28.

John J. Dolan, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus by leaving in the hands of J. F. Quinn, clerk of the Hotel Ketterer, February 28.

Alloycius J. Craig, appearing on list of March 5, already accounted for.

Raymond J. Cass, summoned to appear March 5. Summons received February 28 at 11.30 a. m. Returned by John H. Backus without service, having failed to find him or any last and usual place of abode.

John E. Duffy, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus without service, having failed to find him or any last and usual place of abode.

Joseph McDonough, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Robert Silverman, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus without service, having failed to find him or any last and usual place of abode.

John G. Walsh, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

John R. Murray, appearing on list of March 5, already accounted for in prior list.

Michael Duffy, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

John L. Donovan, appearing as "No response," appeared at a later date and testified.

Edward L. Flynn, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 11.30 a. m. Returned by John H. Backus without service, having failed to find him or any last and usual place of abode.

James McCaffery, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus without service, having failed to find him or any last and usual place of abode.

John J. Horrigan, summoned to appear March 5. Summons received February 28 in marshal's office, 11.30 a. m. Returned by John H. Backus without service, having failed to find him or any last and usual place of abode.

George D. McNeil, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by Mr. John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Thomas Linehan, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

John J. Quain, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or any last and usual place of abode.

Edward J. O'Brien, summoned to appear March 5. Summons received in marshal's office February 28, 1919, at 11.30 a. m. Returned by John H. Backus,

deputy marshal, without service, having failed to find him or any last and usual place of abode.

Leo Spellman, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having failed to find him or any last and usual place of abode.

Daniel J. Shea, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, without service, without having been able to find him or any last and usual place of abode.

Daniel J. Sullivan, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or any last and usual place of abode.

Patrick J. Sheenan, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John H. Backus, by leaving in the hands of Thomas J. Murphy, manager of Quincy House, on February 28. Marshal's return shows he served on Patrick J. Sheehan.

John Dick, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John H. Backus, deputy marshal, by leaving in the hands of Thomas J. Murphy, at Quincy House, February 28.

Charles V. Fitzgerald, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John H. Backus, deputy marshal, by leaving in the hands of C. G. Reed, clerk, Crawford House, February 28.

Patrick T. Bowen, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, served in the hands of C. G. Reed, clerk, Crawford House, February 28.

Patrick F. Halloran, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, by leaving in the hands of J. F. Quinn, celrk, Hotel Ketterer, February 28.

John F. Lambert, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, by service in hand of C. G. Reed, clerk, Crawford House, February 28.

Jeremiah E. Crowley, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having failed to find him and any last and usual place of abode.

Charles L. Smith, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal. Service in hand of John F. Quinn, clerk of Hotel Ketterer, February 28.

Patrick Leonard, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, being unable to find him or any last and usual place of abode.

Henry F. Moran, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or last and usual place of abode.

John McGowan, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or last and usual place of abode.

Representative Dennis Reardon, summoned to appear March 5; received in marshal's office February 28, at 11.30 a. m. Returned by Thomas J. Pyne, deputy marshal, without service, having made diligent search at 88 Calumet Street; failed to find him.

Thomas J. Giblein, appearing on list of March 5, testified.

Richard A. Nagel, summoned to appear on March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John H. Backus, without service, having failed to find him or any last and usual place of abode.

John McGrath, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by Christopher Gilhoni, deputy marshal, by leaving in the hands of F. G. Perkins, clerk, United States Hotel, his last and usual place of abode, on February 28.

Thomas D. Hallahan, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John J. Backus, deputy

marshal, without service, having been unable to find him or last and usual place of abode.

Cornelius Driscoll, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, being unable to find him or last and usual place of abode.

John J. Scanlon, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John J. Backus, deputy marshal, without service, search being made at Revere House, and unable to find him or last and usual place of abode.

William E. Ryan, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Return by John J. Backus, deputy marshal, without service, search being made at Revere House, and unable to find him or last and usual place of abode.

Dennis Reardon, Revere House, summoned to appear March 5. Summons received in marshal's office February 28, at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, having been unable to find him or last and usual place of abode.

Frank P. Leslie, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or last and usual place of abode. Search at Revere House.

Michael J. Lafferty, summoned to appear March 5. Summons received in marshals' office February 28, at 11.30 a. m. Return by John H. Backus, deputy marshal, without service, after search at the Revere House, and being unable to find him or last and usual place of abode.

William F. Kennedy, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or last and usual place of abode. Search at Revere House.

John B. Hennick, summoned to appear March 5. Summons received in marshals' office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, after search at Revere House, and failed to find him or last and usual place of abode.

Thomas F. Reilly, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or last and usual place of abode.

Dennis J. Leary, summoned to appear March 5. Summons received in marshal's office February 28, 1919, 11.30 a. m. Return by John H. Backus, deputy marshal. Service in hands of C. G. Reed, clerk of Crawford House, February 28.

Stephen F. Carlin, summoned to appear March 5. Summons received in marshal's office February 28, 1919, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having been unable to find him or last and usual place of abode.

Fred L. Ross, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by Christopher Gilhoni, deputy marshal, served in the hands of John Reynolds, assistant clerk, Rossmore Hotel, February 28, 1919.

George L. Sullivan, summoned to appear March 5. Summons received in marshal's office February 28, 1919, 11.30 a. m. Return by John H. Backus, deputy marshal, service in hands of C. G. Reed, clerk of Crawford House, February 28.

Park B. Wile, summoned to appear March 5. Service received in marshal's office February 28, 1919, 11.30 a. m. Return by John H. Backus, deputy marshal, served on C. G. Reed, clerk, Crawford House, February 28.

Thomas F. Ward, summoned to appear March 5. Summons received in marshals' office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having failed to find him or last and usual place of abode.

Thomas B. Ward, intended for Thomas F. Ward, summoned to appear March 4. Summons received in marshal's office February 27, 10.30 a. m. Return by Thomas J. Pyne, deputy marshal, in hands of his daughter, Ethel, 18 Linden Park Street, Roxbury, on February 27. Face of summons, "Thomas B. Ward, 19 Causeway Street; 18 Linden Park Street, Roxbury."

Owen Tirrell, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, service in hands of C. G. Reed, clerk, Crawford House, February 28.

Bartholomew Hagerty, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Return by John H. Backus, deputy marshal, without service, having made search at Hotel Central, and failed to find him or any last and usual place of abode.

Charles Mayer, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, search at Hotel Central; unable to find him or any last and usual place of abode.

Richard J. Keaney, appearing on list of March 5, should have been Richard J. Keavney. Summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, after search at Hotel Central and unable to find him or any last and usual place of abode.

Harry Swartz, summoned to appear March 5. Summons received in marshal's office February 28 at 11.30 a. m. Returned by John H. Backus, deputy marshal, without service. Unable to find him or any last and usual place of abode.

John B. McManus. Summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, deputy marshal, without service, after search at Hotel Central, and being unable to find him at last and usual place of abode.

Ernest Waldron, summoned to appear March 5. Summons received in marshal's office February 28, 11.30 a. m. Returned by John H. Backus, without service, having made search at Hotel Central and failed to find him or any last and usual place of abode.

John W. Morton, summoned to appear March 5. Summons received in marshal's office February 28, 1.30 p. m., Hotel Royal. John W. Morton, appearing on list of March 5 as not responding, rose and gave his name in open court, as appears on page 1106 of the stenographic report.

Walter H. Lockman, appearing on list of March 5 as not responding. Summons not produced.

Patrick F. Comber, appearing on list of March 4 as not responding, responded on March 5, as per record.

Thomas H. Corcoran, appearing on list of March 4 as not responding, responded on March 5, as appears from the record on page 1106.

Cyrus N. Campbell, appearing on list of March 4 and not responding, responded on March 5, as per record on page 1106.

Arthur W. Pierce, summoned to appear on the 25th day of February. Summons received in marshal's office February 20, 11.30 a. m., served by Charles A. Farrell, deputy marshal, by leaving in the hands of Maude Stanton at 43 Lynde Street.

Otto Heller, appearing on list of March 4 as "Otto Keller," summoned to appear March 4. Summons received in marshal's office February 27, 10.30 a. m. Returned by John H. Backus, deputy marshal, without service, having been unable to find him or his last and usual place of abode.

Samuel B. Dunn, appearing on list of March 4 as "Samuel P. Devine," summoned to appear March 4. Summons received in marshal's office February 27, 12 o'clock noon. Returned by John H. Backus, deputy marshal, without service, having failed to find him or his last and usual place of abode. The face of the summons bears the following: "Bring with you register of Hotel Bowdoin for the days from March 24 to April 1, 1919."

Capt. Richard Fitzgerald appeared and testified. Officer Cornelius J. Shea appeared and testified. Officer Tomlinson appeared and testified. Officer John N. Eaton appeared and testified. Officer Warren Underhill appeared and testified. Herbert Boynton appeared and testified. Edward Grey appeared and testified. William A. O'Brien appeared and testified. Cornelius J. Shea appeared and testified. George W. Girvan, appearing on list as George W. Gennan, appeared and testified. William A. Healy appeared and testified. Augustus Runcie appeared and testified. Thomas Quigley appeared and testified. Dennis O'Neil appeared and testified. John J. Callahan appeared and testified.

David Stone appeared and testified. William F. Murray appeared and testified. John Gibbons, appeared and testified. Thomas Buckley, 66 Saratoga Street, Boston, appeared and testified. Daniel Conley, navy yard, appearing on list dated February 17, was not summoned and did not appear. D. Mahoney, Hotel Davis, Washington Street, appeared and testified. John Cierry, 469

Shawmut Avenue, intended for John Curry, was summoned. Frank Goodwin, 19 Milk Street, appeared and testified. Joe Desmond, 56 Chescent Avenue, summons not produced. Petitioner's counsel states that he appeared and was excused by his notary.

Allan Farnham appeared and testified. John J. Howell, 1435 Washington Street, Boston, was not summoned. Henry V. Cunningham appeared and testified. Frank J. Barry appeared and testified. William A. Murray, appearing on list dated February 21, appeared and testified. Isaac Gordon, 492 Tremont Street, appeared and testified. Edward J. O'Brien, 160 Faleon Street, appeared and testified. Abraham E. Halparin appeared and testified. Mrs. John J. Graham, 153 Princeton Street, East Boston, summoned to appear February 24. Received summons in marshal's office February 19, at 12 o'clock noon. Returned by John H. Backus, deputy marshal, service in hand on February 19.

Mrs. Frances Aldus appeared and testified.

Mrs. Keenan, 25 Henshaw Street, summoned to appear on the 24th of February. Summons received in marshal's office; no time stated. Service in hand by John H. Backus, deputy marshal, February 19. Produced doctor's certificate.

Mother of Dennis J. Murphy appeared and testified.

John F. Meehan, 1250 Dorchester Avenue, summoned to appear on the 24th of February. Summons received in marshal's office February 19, 12 o'clock noon. Returned by John H. Backus, deputy marshal, leaving at his last and usual place of abode, 1260 Dorchester Avenue, on February 19.

Mrs. John S. Moylan, summoned to appear on the 24th day of February. Summons received in marshal's office on February 19, 12 o'clock noon. Return by John H. Backus, deputy marshal, in hand, on February 19.

Thomas H. Glynn appeared and testified. Mrs. William J. Thornton appeared and testified. Mrs. James T. Leveroni appeared and testified.

William J. Bonning, 15 Claxton Street, Roslindale, summoned to appear February 24. Summons received in marshal's office February 19, at 12 o'clock noon. Returned by John H. Backus, deputy marshal. Served at his last and usual place of abode at 15 Claxton Street, Roslindale, dated February 19.

Summoned again for March 1. Summons received February 25; no time of day. Returned by Thomas J. Pyne, deputy marshal, by leaving in hands of wife, Eva Bonning, on February 25.

Mrs. Frances Downey, 4093 Washington Street, Roslindale. Summons not produced.

Mrs. Catherine Crowley appeared and testified. Mrs. Elizabeth Mulvehill; no summons produced.

Leo Spellman, already accounted for. Summoned to appear February 24. Summons received in marshal's office on February 19. Served in hand in Cambridge on February 19. Returned by George A. Crockwell, deputy marshal.

Mrs. John J. Lavin, 25 Rodman Street, Jamaica Plain. Summons not produced.

Bartholomew McGowan, 107 William Street, Jamaica Plain. Summoned to appear on the 24th day of February. Summons received in marshal's office February 19 at 12 o'clock noon. Return by John H. Backus, deputy marshal, in hand; service on February 19.

Mrs. Michael O'Connor, 46 Walnut Park, Newton, excused by attorney for Mr. Tague. Husband testified in her stead. Mrs. John B. Valente appeared and testified. Mrs. George Mooney appeared and testified.

Mrs. Mary R. Stevenson, 42 Beach Road, Winthrop, summoned to appear February 24. Summons received in marshal's office February 19, 12 o'clock noon. Returned by John H. Backus, deputy marshal, by leaving at last and usual place of abode, 42 Beach Road, in hands of John Brooks, an adult.

Mrs. E. R. Williams, 42 Beach Road, Winthrop, summoned to appear February 24. Summons received in marshal's office February 19, 12 o'clock noon. Returned by John H. Backus, deputy marshal, left at last and usual place of abode, 42 Beach Road, Winthrop.

Mrs. Libby, 62 Coral Avenue, Winthrop, sent a sworn doctor's certificate; unable to attend.

Mrs. Krovitz, 71 Myrtle Street, summoned to appear February 24. Summons received in marshal's office February 19, 12 o'clock noon. Returned by Charles A. Bancroft. Served in hand February 19.

Clerk, Atlantic House, 13 Cambridge Street, answered the call, but did not testify. Summoned to appear February 24. Does not show when received in marshal's office. Returned by Charles A. Bancroft, service by leaving at Atlantic House, last and usual place of abode, in hands of wife, on February 19.

Mrs. Brady, 17 Wharf Street, and Mrs. Dacey, both excused by notary for Mrs. Tague.

Mrs. White, 26 Lynde Street, summoned to appear on February 24. Summons received in marshal's office February 19, 12 o'clock noon. Returned by Charles A. Bancroft, deputy marshal. Service in hand February 19.

Mrs. McCaffery, 18 Lynde Street, summoned to appear February 24. Summons received in marshal's office February 19, 12 o'clock noon. Returned by Charles A. Bancroft, deputy marshal. Served in hand February 19.

Mrs. McKinnon, 130 Myrtle Street, appeared and testified. Mrs. Kathleen Gibbons, 19 Albemarle Street, appeared and testified. Adeline J. Carelzen appeared and testified. Abbie Clark, 24 Cambridge Street, no summons produced.

Sarah E. Smith, 48 McLean Street, summoned to appear February 24. Summons received in marshal's office February 19, 12 o'clock noon. Returned by Charles A. Bancroft, deputy marshal. Service in hand February 19.

Mrs. Hannah Donovan appeared and testified. Mother of Noah Perry, 1104 Saratoga Street, presented a doctor's certificate.

Mrs. Hollander, 84 Fenway Street, summoned to appear the 24th of February. Summons received in marshal's office February 19. No time. Returned by Charles A. Bancroft, deputy marshal. Service by leaving copy at last and usual place of abode in hands of her son February 19.

Mrs. Mary Hart, 25 Irving Street, summoned to appear February 24. Summons received in marshal's office February 19, 12 o'clock noon. Return by Charles A. Bancroft, deputy marshal. Delivered in hand February 19.

Isaac Bornstein, no summons produced. Mrs. Hazelin appeared and testified.

James B. McKenna, 36 Hancock Street, summoned to appear on the 24th of February. Summons received in marshal's office February 19, 12 o'clock noon. Service returned by Charles A. Bancroft, deputy marshal, leaving at last and usual place of abode, 36 Hancock Street, February 19.

Mrs. Clemons appeared and testified.

Mrs. James McGonnagle, 93 Binny Street, Boston, summoned to appear on the 24th of February. Summons received in marshal's office February 19, 12 o'clock noon. Returned by Thomas J. Pyne, deputy marshal. Service in hand February 19.

Mrs. Ellen Wilson appeared and testified.

Mrs. Frank Smith appeared and testified. Mrs. John Hurley appeared and testified. Nellie Lomasney appeared and testified. Mrs. Lyons, Corey Street, Charlestown, appeared and testified.

Mrs. Nora Brown, 3 Prospect Street, testified.

Mrs. Helena Doherty, 195 Main Street, summoned to appear on February 24. Summons received in marshal's office February 19, 12 o'clock noon. Return by John H. Backus, deputy marshal, in hand on February 19.

Mrs. Callahan, 7 Mansfield Place, summoned to appear the 4th day of March. Name appears on the list of February 24. Summons received in marshal's office February 19, at 12 o'clock noon. Returned by Benjamin J. Scully, deputy marshal; diligent search failed to find her or last and usual place of abode.

(Adjourned to 10 a. m., Tuesday, April 8, 1919.)

APRIL 8, 1919.

Testimony taken in room 443, Federal Building, Boston, Mass., Tuesday, April 8, 1919, at 10.25 a. m., before David Mancovitz, Esq., presiding, and Abraham C. Berman, Esq., as notaries public.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant. John P. Feeney, Esq., and Timothy F. Callahan, Esq., for the contestee.

Mr. CALLAHAN. Will those persons who were summoned for this morning come forward and be sworn?

Mr. HARRINGTON. Can't they stand where they are?

(The oath was administered to five witnesses, standing, by Notary Mancovitz.)

PATRICK F. GOGGIN, sworn.

By Mr. CALLAHAN:

Q. What is your name, please?—A. Patrick F. Goggin.

Q. You are a captain in the Boston fire department?—A. Yes, sir.

Q. How long have you been a captain in the fire department, or how long have you been in the Boston fire department?—A. About 26 years.

Q. You have been there 26 years?—A. Next month, the 7th—

Q. Where do you live, Captain?—A. 21 Monument Square.

Q. For how long have you lived at 21 Monument Square?—A. Since 1914.

Q. Since 1914?—A. 1914.

Q. And have you lived there regularly?—A. Off and on.

Q. Off and on?—A. Off and on.

Q. You are married?—A. I am married.

Q. And you have some children?—A. Four children.

Q. And your wife and four children don't live in Monument Square, do they?—A. No, sir.

Q. They live in Somerville?—A. My wife lives in Somerville.

Q. And your children live there, too?—A. Yes, sir.

Q. Your children go to the Somerville schools?—A. One of them.

Q. One of them? And the others went to the Somerville schools formerly, didn't they?—A. Charlestown.

Q. At some time, didn't all your children go to the Somerville schools?—A. No, sir.

Q. How long have your wife and children been living in Somerville?—A. Since 1914.

Q. 1914. Now, you were sick recently, weren't you, Captain?—A. Yes, sir.

Q. And you were attended by a physician?—A. Yes, sir.

Q. The physician came to your house in Somerville, didn't he?—A. He came to my house in Somerville.

Q. How long have you been in a house in Monument Square?—A. Well, I have stood there in the summer time between July and September.

Q. Yes.—A. Off and on.

Q. Off and on?—A. I have used the room—

Q. Off and on between July and September?—A. And September.

Q. And at any other part of the year?—A. Yes; I stood there the spring of the year.

Q. In the spring of the year?—A. In the spring of the year.

Q. For how long would you stay there in the spring of the year, Captain?—A. Oh, overnight.

Q. Overnight?—A. Yes.

Q. That is, the night of the last of March or 1st of April?—A. Somewhere around that part of it.

Q. And that was in order to be listed and registered in Boston?—A. In order to be registered and listed in Boston.

Q. So that you could vote in Boston?—A. So that I could vote in Boston.

Q. Your telephone number in Somerville is Somerville 4575-M, isn't it?—A. The telephone in the house is that number, but it isn't mine.

Q. The telephone is in the name of your wife?—A. No.

Q. Lillian J. Goggin. Who is she?—A. She is my daughter.

Q. She is your daughter?—A. Yes.

Q. Is she married?—A. No, sir.

Q. She lives with your wife and rest of your family?—A. Yes sir.

Q. Now, 21 Monument Square; whose home is that?—A. Mrs. Tague's.

Q. And Mrs. Tague, that is the wife of the Congressman?—A. The wife of the Congressman.

Mr. CALLAHAN. I guess that is all.

Cross-examination by Mr. O'CONNELL:

Q. Captain, did you vote at the State election last year?—A. Last year? No, sir.

Q. Or the primary election?—A. No, sir.

Q. So you did not vote at either the congressional primary or congressional election last year?—A. No; I did not.

Redirect examination by Mr. CALLAHAN:

Q. The three or four years before that, you did vote from that house?—A. 1914; well, these last two years I haven't voted; these last two years, I haven't voted from Charlestown, or any other place.

Q. The records I think will show, Captain, you voted in 1917, 1916, 1915, and 1914.—A. I voted in 1914 and 1915. 1916 and 1917 I do not think I did.

Q. Is there any reason why you did not vote this past year?—A. Not at all. My wife was not feeling very well, I think, that day.

Q. That day you were living in Somerville?—A. That day I was living in Somerville, and I got home as quick as I could.

Q. If you did not vote in 1917, Captain, was there any reason why you did not vote?—A. Is there any reason?

Q. Yes.—A. No reason at all, that I know of.

Q. You were in the habit of voting regularly, both at primaries and elections?—A. No, no; I do not think I have; no.

Mr. O'CONNELL. Now, before the captain leaves the stand, Mr. Callahan, Mrs. Goggin has been summoned. She is not very well. I presume you have all the information you can get from Mrs. Goggin, anyway. Can you excuse Mrs. Goggin now?

Mr. CALLAHAN. I will only take a few minutes.

Mr. O'CONNELL. I mean, excuse her from the necessity of coming here. She is not feeling very well.

Mr. CALLAHAN. Oh, if that is so, so that you may clear the records, bring in a certificate.

Mr. O'CONNELL. All right. We will do that. That is all, Captain.

TIMOTHY F. MANNING, sworn.

By Mr. CALLAHAN:

Q. What is your name?—A. Timothy F. Manning.

Q. You are a clerk on the listing board?—A. Yes, sir.

Q. And you have charge of the listing books in your office?—A. Yes, sir.

Q. And you have charge of the cards giving the names of men listed and the names of informants?—A. I have.

Q. Now, have you brought with you the cards relating to the listing of Patrick F. Goggin?—A. Yes, sir.

Q. Will you state where Patrick F. Goggin was listed from on the 1st of April, 1918?—A. Ward 4, precinct 5, 21 Monument Square.

Q. 21 Monument Square. Will you give us the name of the informant, please?—A. Josephine L. Tague.

Q. Josephine—A. L. Tague.

Q. L. Tague.—A. Or "T." Tague. It may be Josephine T.

Q. Or "L."?—A. Yes.

Q. Tague.—A. I should say it was "L."

Q. Now, those cards are made out by the police officers who take the names from the informants in the house. Is that so?—A. Yes.

Q. Now, will you give us—have you with you the card relating to the police listing of Martin J. Turnbull?—A. Yes, sir. Ward 4, precinct 7, 47 Corey Street.

Q. 47 Corey Street. And will you give us the name of the informant in that case?—A. Mary A. Tague.

Q. Mary A. Tague. Have you the card there—will you give us the information relating to Austin J. Turnbull or Austin Turnbull, whichever it may be?—A. Ward 4, precinct 7, 47 Corey Street. Austin P. Turnbull.

Q. And the name of the informant in that case?—A. Mary A. Tague.

Q. Will you give us—have you the card there relating to the police listing of William Taylor?—A. Ward 2, precinct 4, 40 Chelsea Street. William Taylor, foreman, newspaper.

Q. And the name of the informant, please?—A. Mary Taylor.

Q. In the case of Taylor?—A. Mary Taylor.

Q. Mary Taylor. Now, in the case of Martin J. Turnbull, does it indicate what his business is?—A. Superintendent.

Q. Is that all?—A. Yes.

Q. In the case of Austin or Augustus Turnbull, does it indicate what his business is?—A. Engineer.

Q. Now, have you the card relating to the police listing of Joseph L. Kane?—A. Yes, sir.

Q. Give us that.—A. Ward 2, precinct 3, 103 Meridian Street. Joseph L. Kane, clerk.

Q. The name of the informant, please?—A. Mary McGrath.

Q. Did I ask you to bring the cards of any other cases? Have you now brought all the cards I asked for in the summons?—A. Yes, sir.

Q. Now, may I see that blue card [indicating] for just a minute?—A. (Witness hands counsel card indicated.)

Mr. CALLAHAN. Or green card, rather.

Mr. O'CONNELL. No questions.

MARTIN J. TURNBULL, sworn.

By Mr. CALLAHAN :

Q. What is your name?—A. Martin J. Turnbull.

Q. What is your business?—A. I am superintendent of the ropewalk at the navy yard.

Q. Will you speak up, please, so that the stenographers can hear? Are you related in any way to Congressman Tague?—A. Yes, sir.

Q. And what is that relationship?—A. First cousin.

Q. First cousin? You live in Somerville, don't you?—A. 47 Corey Street, Charlestown.

Q. You live at 47 Corey Street, Charlestown?—A. Yes, sir.

Q. And how long have you lived at 47 Corey Street?—A. I was born and brought up there, and have lived there at times all my life.

Q. You lived there at times all your life?—A. Yes, sir.

Q. Your wife doesn't live there?—A. At times; yes, sir.

Q. At times?—A. Yes, sir.

Q. Will you tell us what times during the past year your wife lived at 47 Corey Street?—A. I couldn't tell specifically.

Q. What is that?—A. I couldn't tell them regularly, but she has been there and lived there.

Q. Has she ever been there with you?—A. Yes, sir.

Q. And lived there with you?—A. Well, at times; yes, sir.

Q. What time? Tell us one time within the past year that she lived there with you.—A. I couldn't mention the dates.

Q. Well, approximately, Mr. Turnbull.—A. Well, she was there last summer. That is, in the early spring she was there.

Q. She was there? And by "early spring," what do you mean? Around the 1st of April?—A. Yes, sir.

Q. For how long did she stay there?—A. Well, at that time she only stayed there a couple of days. I was over myself after that.

Q. Have you any children?—A. Yes, sir.

Q. One?—A. Yes, sir.

Q. Did your child live there with you, too?—A. Yes, sir.

Q. How old is your child?—A. Twenty years old.

Q. Oh, 20. Twenty years old?—A. Yes, sir.

Q. He lives in Somerville, too, with you?—A. Sometimes.

Q. Most of the year?—A. "He" is a girl.

Q. What do you mean by "at times," Mr. Turnbull?—A. What do I mean? I mean at times, different times throughout the year.

Q. Now, is there any reason why you should go over there to live at times throughout the year when you have your own home in Somerville?—A. Well, I consider that my home—47 Corey Street.

Q. You consider that your home?—A. Yes.

Q. As a matter of fact, that is the home of Mrs. Tague, isn't it?—A. No.

Q. What is that?—A. No; she lives there.

Q. She lives there?—A. Yes.

Q. And when you go to live at 47 Corey Street, you go to live in Mrs. Tague's apartment, don't you?—A. No.

Q. Where do you go?—A. My own.

Q. Do you mean to say you have an apartment there?—A. Yes, sir.

Q. A furnished apartment?—A. Yes.

Q. How many rooms?—A. Seven.

Q. Seven rooms?—A. Five rooms.

Q. Now, let us understand. You have five rooms furnished at 47 Corey Street. How many rooms have you furnished in Somerville?—A. Five.

Q. Five rooms in Somerville?—A. Yes.

Q. So that sometimes you live in Somerville?—A. Yes, sir.

Q. And sometimes you live in Corey Street, Charlestown?—A. Yes, sir.

Q. You can't tell us now just what times you live at Corey Street, Charlestown, can you, except the 1st of April?—A. Well, I myself lived there a great deal through—in fact, I lived there myself—

Mr. O'CONNELL. Let him answer.

Mr. CALLAHAN. Oh, that is all right.

Q. Are you there as a matter of convenience, in connection with your business?—A. At times; yes, sir.

Q. So they can get you easily whenever they want you?—A. Well, at times the past two years I have had to work late—very late at night—until 1 o'clock in the morning at times.

Q. Now, if they wanted you in the yard, they telephone for you, wouldn't they?—A. Yes.

Q. Yes. You haven't any telephone at 47 Corey Street?—A. There is a telephone there.

Q. You haven't any telephone there?—A. No; but there is one there.

Q. Will you please answer my question? You haven't any telephone at 47 Corey Street?—A. No.

Q. But you have a telephone in Somerville?—A. Yes.

Q. That telephone is in your name?—A. Yes.

Q. That telephone is number, Somerville 2409-W?—A. Yes, sir.

Q. That is your telephone number in Somerville, isn't it?—A. Yes.

Q. You haven't any telephone in Charlestown?—A. Personally, no.

Q. Now, does your girl go to school?—A. Yes.

Q. Where?—A. Boston.

Q. Where in Boston does your girl go to school?—A. Boston Normal School.

Q. Did she go to the Somerville High School?—A. Never.

Q. Never did?—Is there anybody else that lives in this apartment besides you in Charlestown?—A. My brother.

Q. What is your brother's name?—A. Augustine P. Turnbull.

Q. Augustine P. Turnbull?—A. Yes, sir.

Q. Is he married?—A. No, sir.

Q. He is not married? Will you please tell us—do I understand now that this house in Charlestown is an apartment house?—A. No; it is a large old-fashioned house.

Q. But it is divided into apartments?—A. No.

Mr. O'CONNELL. He will describe it.

Mr. CALLAHAN. Wait.

Mr. O'CONNELL. You interrupt him.

Mr. CALLAHAN. He answered "No."

Mr. O'CONNELL. He was going on when you——

Q. Now, tell us—will you please tell us if that is so—how you kept an apartment of five rooms?—A. This house is an old-fashioned house, and my mother and Mr. Tague's mother were sisters, and they came to live there 50 years ago.

Q. Yes.—A. And each had rooms—each family had rooms in the house. At times, we practically lived together.

Q. Yes. A. And my mother had hers and Mrs. Tague had hers.

Q. Speak up, please. I can't hear you. I don't believe they can hear you. I can't.

Mr. O'CONNELL. I can hear him, all right.

The WITNESS. Those rooms remain the same to-day. Mrs. Tague has her apartment and I have mine.

Q. Yes. Now, your wife goes there with you on the 1st of April?—A. Yes.

Q. You go there on the 1st of April to retain your voting residence in Boston? That is so, isn't it?—A. I make that a point; yes, sir.

Q. Now, will you tell us, if you can, Mr. Turnbull, why it is that Mrs. Tague gives your name on the 1st of April, and not your own wife?—A. Well, we leave it there with her, and she is at home there all the time, and she happened to be the one that gave it when the policeman called.

Q. But, if your wife was there, she would give it, wouldn't she?—A. She would; yes.

Q. When Mrs. Tague gives it, it is because your wife isn't there?—A. Well, because whoever goes to the door first will give it. They are all made out.

Q. Who owns this house, Mr. Turnbull?—A. It was my mother's house, and is in my brother's name.

Q. Your brother? In your brother's name now?—A. Yes, sir.

Q. That is your brother, Augustus?—A. Augustine.

Q. Augustine?—A. Yes, sir.

Q. Will you tell us, please, where Mrs. Turnbull is now?—A. I believe she is at home. Probably she is home in Somerville. She might be out. She was there this morning.

Q. Was she there last week?—A. No; she was not there last week.

Q. Speak up, please.—A. No; she was not.

Q. Will you tell us where she was last week?—A. She was at 47 Corey Street a part of the time.

Q. At 47 Corey Street?—A. Yes.

Q. Were you there at 47 Corey Street part of the time?—A. Yes, sir.

Q. Were you at 47 Corey Street last night?—A. No.

Q. You were in Somerville last night?—A. I was in Somerville last night.

Q. Your wife was there, too?—A. Yes.

Q. Was your daughter?—A. Yes.

Q. You know you are listed in the Somerville directory, don't you?—A. No; I didn't.

Q. You know that you are not listed in the Boston directory?—A. I thought I was.

Mr. CALLAHAN. All right. We will show you are not.

Cross-examination by Mr. O'CONNELL:

Q. Just a few questions, Mr. Turnbull. This house, 47 Corey Street, is where you live part of the time?—A. Yes, sir.

Q. And from where you vote is the house you were born in?—A. Yes, sir.

Q. And where you lived up to the time you were married?—A. Yes, sir.

Q. And for many years after your marriage you have lived there?—A. Well, I kept in close touch with the house at all times.

Q. And you have the equitable interest in the title of that house?—A. Yes, sir.

Q. And you own the furniture in the house?—A. I own the furniture in the house.

Q. And you pay the bills?—A. Whatever bills that are to be paid, I pay them.

Q. Yes. You took the matter up of your residence with the Boston election commissioners?—A. Yes, sir.

Q. And did the Boston election commissioners decide that——

Mr. CALLAHAN. Wait, wait.

Q. (Continuing.) Your residence was in Boston?

Mr. CALLAHAN. I object to that.

Notary MANCOVITZ. When was this? What period?

Q. Will you answer the question?

Notary MANCOVITZ. Note Mr. Callahan's objection.

The WITNESS. Yes, sir.

Q. What commissioner did you take the matter up with?—A. Commissioner Murphy.

Q. How did you happen to take the matter up with Commissioner Murphy?—

A. I went to him and explained my position and my condition, and I was assessed in Somerville.

Q. Did Commissioner Murphy decide the matter?—A. I do not know who gave my name in Somerville.

Q. I am asking you did he make a decision on the question?—A. He made a decision.

Q. Did he have charge of the first six wards of the city?—A. He said so; yes.

Q. Your ward is 3?—A. 4.

Q. And after hearing what you stated, he told you you were rightly registered in Boston?—A. He told me I was rightly registered in Boston.

Q. And when you found you had been assessed in Somerville, you went there and the Somerville assessors corrected that and took you off that list?—A. Corrected me and took me off that list.

Mr. O'CONNELL. Now, I think that is all.

Redirect examination by Mr. CALLAHAN:

Q. Now, Mr. Turnbull, have you always voted in Boston?—A. Always.

Q. Always? Is it true you have always voted from this house?—A. No, sir.

Q. You voted from some other house in Boston?—A. Some other house in Charlestown.

Q. Charlestown?—A. Yes.

Q. What other house in Charlestown did you vote from?—A. From 284 Bunker Hill Street.

Q. From 284 Bunker Hill Street?—A. Yes, sir.

Q. When did you do that?—A. When I resided there.

Q. Of course, when you resided there, but when was it?—A. That was up to three years ago..

Q. Up to three years ago; and for how many years, sir, have you voted at 284 Bunker Hill Street?—A. Oh, I should say about 16 years.

Q. About 16 years?—A. Yes, sir.

Q. And during those 16 years that you voted from Bunker Hill Street did you have your apartment in Corey Street?—A. No, sir.

Q. Didn't you tell Mr. O'Connell just now that you kept your apartment there from boyhood; that you had always kept this apartment there, and you owned the furniture, and you regarded that as your residence?—A. I did not say that I owned the furniture all the time or that I kept the apartment all the time.

Q. Tell us when you acquired the ownership of this furniture.—A. About three years ago, at the death of my mother.

Q. And it was then that you started your flat at Corey Street?—A. I kept it up.

Q. It was at that time you discontinued your residence on Bunker Hill Street?—A. Yes, sir.

Q. How soon before that had you moved to Somerville?—A. About three or four months.

Q. About three or four months before that you moved to Somerville. Now, was your brother living there at the time you voted from Bunker Hill Street?—A. He was living at Corey Street.

Q. He was living at Corey Street?—A. Yes, sir.

Q. Will you tell us now, sir, any reason why you should have gone back to Corey Street three years ago?

Mr. O'CONNELL. I object to that as not material.

Notary MANCOVITZ. Your objection is noted.

Mr. O'CONNELL. I objected to it because it was immaterial.

Notary MANCOVITZ. Note Mr. O'Connell's objection.

Q. Will you tell us, please, any particular reason why you should have gone back to Corey Street three years ago?—A. I wanted to maintain a voting residence.

Q. You wanted to maintain a voting residence?—A. I wanted to maintain a voting residence.

Mr. O'CONNELL. Wait a minute. Let him finish, please. Go ahead.

The WITNESS. And be a citizen of Boston—to be recognized as a citizen of Boston.

Q. All right. Now, let us see if this is the case, Mr. Turnbull: You lived on Bunker Hill Street and voted there for about 16 years?—A. Yes.

Q. Now, you actually lived there with your wife and little girl all those years. Then you moved to Somerville and took an apartment, and in moving to Somerville, you wanted to retain your voting—your right to vote—here in Boston?—A. I wanted to retain my citizenship in Boston.

Q. Your citizenship here in Boston, and then, although you maintained your wife and your child in Somerville, you would come the 1st of April to Corey Street, where your brother's house is, and live there for a time and be listed and subsequently registered; is that so?—A. I lived there more considerable time than the 1st of April.

Q. You did that solely for the purpose to maintain or retain your right to vote in Boston. Isn't that so?—A. My citizenship in Boston; yes, sir.

Recross-examination by Mr. O'CONNELL:

Q. And as a citizen of Boston, you spent a good deal of the time at that house?—A. Yes, sir; at least——

Q. All during the summer months?—A. Yes, sir.

Q. And during the last two years you have spent a good deal of the time there on account of having to work late at the navy yard?—A. Yes, sir.

Q. And this house at 47 Corey Street is convenient to the navy yard?—A. Very convenient; yes, sir.

Q. And you have spent probably—how many nights during the whole year have you slept there?—A. Possibly 50.

Q. Possibly 50? Your telephone is known at the navy yard so you can be gotten at either place?—A. Either place.

Q. That is on record at the navy yard to get you.

Mr. O'CONNELL. That is all.

Redirect examination by Mr. CALLAHAN:

Q. What is the number of your telephone at Corey Street?—A. 1087-J.

Q. In whose name is it?—A. Catherine Tague, or Mary A. Tague.

Q. Mary A. Tague? That is the mother of Congressman Tague?—A. Of Congressman Tague.

Q. And his sister lives there, too?—A. Yes, sir.

Mr. CALLAHAN. That is all.

FREDERICK HALE PINGREE, sworn.

By Mr. CALLAHAN:

- Q. What is your name?—A. Frederick Hale Pingree.
 Q. You live at 221 Willow Street, Somerville?—A. Yes, sir—Willow Avenue.
 Q. Willow Avenue?—A. Willow Avenue.
 Q. How long have you lived there, Mr. Pingree?—A. Four or five years.
 Q. You have some children?—A. Two.
 Q. One is a little girl?—A. They are both girls.
 Q. Both girls. You know Capt. Goggins?—A. Yes, sir.
 Q. You know that he lives there?—A. I see him occasionally.
 Q. What do you mean by "occasionally," Mr. Pingree?—A. It might be once a week or once a month.
 Q. Is that because you aren't there or because he isn't there?—I couldn't say.
 Q. What is that?—A. I couldn't say.
 Q. Do you know his family?—A. Yes, sir.
 Q. You know their names?—A. Yes, sir.
 Q. You know them all pretty well, don't you?—A. I have met them all.
 Q. Is there any of them going to school there in Somerville?—A. I wouldn't know except I heard the captain say so.
 Q. Yes. How long to your knowledge has the captain's family lived in Somerville?—A. Only since the time I lived there.
 Q. That is, they were living in the house when you went there?—A. Yes, sir.
 Q. You know his wife?—A. Yes, sir.
 Q. And do you see his wife more frequently than you do the captain?—A. Yes, sir.
 Q. Is there any time in the year when you notice that Mrs. Goggins isn't there?—A. I do not know as I have.
 Q. No. As a matter of fact, there is no time that you have noticed an extended absence by Mrs. Goggin?—A. No, sir.
 Q. You probably meet her every day?—A. No, sir.
 Q. See her every day?—A. No, sir.
 Q. You see her pretty nearly every day, don't you?—A. I couldn't say that I do; no, sir.
 Q. You see some of the family every day?—A. I do not know as I do; no, sir.
 Q. Is there any time you notice that the whole family has left there for any length of time?—A. I haven't noticed it; no, sir.
 Q. You say you lived there four or five years?—A. Yes, sir.
 Q. What floor do you live on?—A. The first floor.
 Q. They live above you?—A. Yes, sir.
 Q. Do you know their telephone number?—A. I do not.
 Q. You are listed in the Somerville Directory?—A. Yes, sir.
 Q. Do you know whether or not Capt. Goggin is listed in the Somerville Directory?—A. I don't know.
 Mr. CALLAHAN. That is all.

Cross-examination by Mr. O'CONNELL:

- Q. Just one question. Your daughter was Gladys—is Gladys Pingree?—A. Yes, sir.
 Q. How old is Gladys?—A. Ten years old.
 Q. How much?—A. Ten.
 Q. Ten years old. Have you brought her here to-day?—A. I haven't.
 Q. Will you state why she hasn't come?—A. Because she is in school. She is not strong, a nervous child, and I disliked to bring her.
 Mr. O'CONNELL. I think under those circumstances, Mr. Callahan ought to excuse her.
 Mr. CALLAHAN. We did excuse her last night, Mr. O'Connell. We excused her at your request, didn't we [addressing witness]?
 The WITNESS. Yes, sir.
 Mr. O'CONNELL. I wanted to have that clear on the record. That is all.
 Mr. CALLAHAN. We excused her at Mr. Pingree's request.
 Mr. O'CONNELL. That is all.
 Mr. CALLAHAN. That is all.

WILLIAM TAYLOR, sworn.

By Mr. CALLAHAN:

Q. Your name, please.—A. William Taylor.

Q. You are connected with the Boston Post, Mr. Taylor?—A. Yes.

Q. And in what capacity, please?—A. Editorial capacity.

Q. Are you the political editor of the Post?—A. No, sir.

Q. You were?—A. Yes.

Q. Now in the editorial department?—A. Yes, sir.

Q. You are the William Taylor who is registered from Chelsea Street, 40 Chelsea Street, East Boston?—A. Yes, sir.

Q. Do you live there, Mr. Taylor?—A. I vote from there.

Q. You vote from there?—A. Yes.

Q. You live at 1396 Commonwealth Avenue?—A. I have a residence at 1396 Commonwealth Avenue, temporarily.

Q. Your telephone number is Brookline 4210?—A. Yes.

Q. How long have you lived at Commonwealth Avenue, Mr. Taylor?—A. I have been there, I think, four years, five years.

Q. And do you regard that as a temporary residence?—A. Yes.

Q. You lived in East Boston on the 1st of April?—A. Yes.

Q. You lived there the 1st of April, 1918?—A. Lived there the 1st of April for the past five years.

Q. And Mrs. Taylor lives there, too?—A. Yes, sir.

Q. Mrs. Taylor gives your name on the 1st of April?—A. Never.

Q. The police card this morning showed—A. The police card is wrong.

Q. You say it is wrong?—A. Yes.

Q. Is it because Mrs. Taylor isn't there and can't give the name?—A. No. Mrs. Taylor was there with me on the 1st of April and last day of March, and sometimes until the 3d of April, but Mrs. Taylor did not give the information.

Q. You go there, Mr. Taylor, simply to acquire a voting residence in Boston, or in this district?—A. Go there for three or four reasons.

Q. Your principal—A. That is one of them.

Q. That is your principal reason, isn't it?—A. No, sir.

Q. How long do you stay there, Mr. Taylor?—A. I stay there generally from about 8 o'clock on the last day of March until the police officer comes, or knowing that he is going to come. That would probably be sometimes on the 1st of April and sometimes on the 2d.

Q. So that after the policeman comes, you then go to Commonwealth Avenue again?—A. After I am sure that I am listed from 40 Chelsea Street I resume my temporary residence on Commonwealth Avenue.

Q. Now, as a matter of fact, that is your particular reason for going there, isn't it?—A. That is not my particular reason for going there.

Q. Is that your principal reason for going there?—A. That is not my principal reason for going there.

Q. At any rate, when the policeman comes and the police listing is finished, you then leave your home in East Boston and go to Commonwealth Avenue?—A. Yes.

Q. And Mrs. Taylor goes with you?—A. Yes.

Q. Now, Mr. Taylor, you were pretty strong in advocating the candidacy of Mr. Tague in this congressional fight, weren't you?—A. Pretty strong in advocating the—

Q. That is, you advocated the election, and—nomination and election of Mr. Tague?—A. I think you ought to ask me who I voted for. Don't you want—

Q. I do not ask for that.—A. I voted for Mr. Tague.

Q. If you want to answer that way, all right.

Mr. CALLAHAN. That is all.

Cross-examination by Mr. O'CONNELL:

Q. Just a minute. This 40 Chelsea Street, Mr. Taylor, is your home?—A. Yes.

Q. And you have lived in that home for a great many years?—A. Lived next door to it 25 years.

Q. Twenty-five years. And it is property owned—A. By me.

Q. By you; and the furniture in the rooms that you occupy is your furniture?—A. Well, not exactly that. The furniture belongs to Mrs. Richie, but the conditions of rent and the conditions of occupancy and the conditions surrounding the whole place is a matter that makes it at any time my right—

Q. To go there?—A. To go there.

Q. That is a right—A. A right at any time to go back there when things are settled so I can.

Q. Any time during the year?—A. Yes, sir.

Q. I see. You were asked about your reasons for going there and an intimation made that it was voting was your principal reason. I do not know what your reasons are. Do you object to telling us what your reasons are?—A. Property reasons.

Mr. O'CONNELL. For property reasons? I think that is all.

Redirect examination by Mr. CALLAHAN:

Q. Now, Mr. Taylor, will you tell us at any other time during the past year that you went to live at 40 Chelsea Street?—A. Not a single time. That is, you mean to stay all night there?

Q. Yes.—A. Not a single time.

Q. So that the only time that you do actually go there and stay there is the 1st of April?—A. I go there to establish a domicile to protect property rights. That is what I go there for; not to vote, but to protect—get a domicile that will protect property rights.

Q. Now, Mr. Taylor, in all the years you voted from East Boston, you did not always vote from 40 Chelsea Street?—A. Always voted from either 40 or 42.

Q. Either 40 or 42?—A. Yes. They are both in a block. They are both the same house, practically.

Q. Where you live now, in Commonwealth Avenue, isn't in the 10th congressional district?—A. Where I live now, I do not know what district it is in. I think it is in the old district represented by Mr. Mitchell.

Q. But it is in another congressional district?—A. Oh, surely so.

Mr. CALLAHAN. That is all, Mr. Taylor.

Mr. O'CONNELL. That is all, sir.

Mr. CALLAHAN. That is part of Boston where you live?

The WITNESS. Yes, sir.

MISS CATHERINE T. TAGUE, sworn.

By Mr. CALLAHAN:

Q. What is your name, please?—A. Catherine T. Tague.

Q. Catherine T. Tague?—A. Yes.

Q. You live at 47 Corey Street, Miss Tague?—A. Yes, sir.

Q. You have lived there for a great many years?—A. Yes, sir.

Q. Did you live there with your mother?—A. Yes, sir.

Q. No. 47 Corey Street is a one-family house, isn't it?—A. It is, well, a large house, which has always been used as a two-family house.

Q. I know; but there aren't really two apartments there?—A. Yes, sir.

Q. When you say there are two apartments, you mean there are two distinct apartments with a kitchen for each?—A. Certainly.

Q. And a bathroom for each?—A. Certainly.

Q. And sleeping rooms for each?—A. Yes, sir.

Q. Now, is one apartment on one floor and another apartment on another floor?—A. No; it is separated differently—separated one part on each side of the house.

Q. You mean to say that they are separated; one apartment is on one side of the house and one apartment is on the other?—A. In a way; yes, sir.

Q. Where is your kitchen, Miss Tague?—A. My kitchen is on the first floor.

Q. On the first floor?—A. Yes, sir.

Q. And the kitchen of Mr. Turnbull is on the same floor?—A. In the basement.

Q. In the basement?—A. Yes, sir.

Q. That is on another side of the house?—A. Yes, sir.

Q. Then his rooms run up on one side of the house?—A. Yes, sir.

Q. And yours run up on the other?—A. Yes, sir.

Q. Are there two separate entrances to this house, Miss Tague?—A. One entrance.

Q. There is one entrance? On the 1st of April, 1918, you gave the name of Mr. Turnbull to the police officer, didn't you?—A. No, sir; I didn't.

Q. You didn't?—A. No, sir; my mother.

Q. Oh, it was your mother. I beg your pardon. Was Mrs. Turnbull there then?—A. Yes, sir.

Q. And was there any reason why Mrs. Turnbull shouldn't give the name of her husband?—A. She was not in at the time.

Q. Were you there when the policeman came?—A. No, sir. I was out.

Q. She wasn't there at the time, you say?—A. Not that I know of.

Q. You weren't there?—A. I wasn't there, too; no.

Q. Now, you know, of course, Mr. Turnbull lives in Somerville with his wife?—A. Part of the time; yes, sir.

Q. And you have visited him there? Have you ever visited his house?—A. I cant' say that I have.

Q. What is that?—A. I cant' say that I have.

Q. He is a cousin of yours?—A. Yes; but I never had time to visit him.

Q. He comes to visit at your house regularly, does he?—A. All the time.

Q. And as a matter of fact he comes there to visit?—A. He doesn't come to visit. He comes when he chooses, to live.

Q. Will you tell us any time now, Miss Tague, except perhaps the 1st of April, during the past year when Mr. Turnbull and his wife and his daughter were at your house?—A. Can I tell you any time? A good many times.

Q. Tell us how many times.—A. I have never kept track of the explicit times.

Q. Will you tell us one particular time?—A. I do not know of any time particularly. Any time he cares to come, he comes there.

Q. I know that. I know any time he cares to come he can come, but can you recall now any particular time except the 1st of April that he was at your house?—A. Yes; I can. He is there at least once every week all summer long.

Q. Now, can you recall any particular time—A. I do not know of any specified date that I could say—any special date.

Q. Now, at the time you do remember particularly that he was there, do you recall whether his wife and his daughter were there with him?—A. Yes; I do.

Q. They both were there with him?—A. Yes, sir.

Q. You know that he has a telephone number in Somerville?—A. I did not get your question, sir.

Q. You know that he has a telephone number in Somerville?—A. Yes, sir.

Q. Will you tell us what furniture Mr. Turnbull has in that house?—A. Yes; I can. He has a kitchen set. He has a parlor furnished. He has chambers furnished.

Q. He has that furnished?—A. Yes.

Q. Who lives there when Mr. Turnbull isn't there?—A. His brother.

Q. Does he live there when he is there?—A. Yes, sir; sometimes.

Q. As a matter of fact, does that furniture belong to his brother?—A. The furniture belongs to the Turnbells, for anyone who wishes.

Q. To the Turnbells?—A. To the Turnbells. Mr. Turnbull pays all the expenses of this furniture.

Q. Mr. Turnbull pays what?—A. Expenses of caring for the furniture.

Q. And do you know that for a fact?—A. Of course I do.

Q. You know he pays all the expenses?—A. Of the homestead.

Q. Of the home?—A. Yes, sir.

Q. Now, will you please tell us to whom he pays any expenses?—A. If there is any cleaning or repairs or anything, he pays for them.

Q. Can you tell us anybody he has paid?—A. I can; yes.

Q. Will you tell us the name of any people?—A. I don't care to.

Q. You don't care to?—A. Why should I tell? He pays his gas bill.

Q. Are you sure of that?—A. Positive. I could show you his bills.

Q. Pays the gas bill for that whole house?—A. Pays it for his own apartment.

Q. Pays it for his own apartment?—A. Yes, sir.

Q. Were there any other bills he paid?—A. Pays for the cleaning of his half.

Q. Do you mean to say the gas bill for that apartment house is made out to Turnbull?—A. Martin J. Turnbull; yes sir.

Q. Are there two separate meters in that house?—A. No, sir; one meter.

Q. One meter?—A. Yes, sir.

Q. That one meter provides gas for the whole house?—A. Only gas in his apartment.

Q. Only gas in his apartment? Another one in your apartment?—A. No, sir; mine is oil.

Q. I see. Now, since you have shown such a knowledge of the way he pays his expenses, Miss Tague—since you have shown such a knowledge of the way he pays his expenses, the expenses of maintaining that house there, can you tell us to whom else he pays anything? Not what he pays, the amount. I am not

concerned with that, but I would like to know the name of somebody.—A. His water bills—pays his taxes. I do not know who he pays his bills to.

Q. Miss Tague—A. Yes, sir.

Q. (Continuing.) Do you know the grocery man who sends groceries to your house and Mr. Turnbull?—Mr. Turnbull hadn't occasion to have grocery bills.

Q. Do you know the grocery man that sends groceries to Mr. Turnbull at that house?—A. No, sir.

Q. Do you know the butcher that sends meats?—A. No, sir.

Q. (Continuing.) To Mr. Turnbull at that house?—A. No, sir.

Q. Do you know any coal dealer that sends coal to him at that house?—A. The house is heated by one heater.

Q. That is, this whole house is heated by one heater, and Mr. Turnbull doesn't buy the coal for that heater?—A. Buys some.

Q. What?—A. He provides some of it.

Q. That is, by some arrangement with you, is it?—A. Yes, sir.

Q. Well, can you give us the name of a laundryman who furnishes laundry to Mr. Turnbull at that house?—A. No.

Q. So, as a matter of fact, Miss Tague, you can't give us the name of any person who furnishes the necessities of life with whom Mr. Turnbull trades and has things delivered to that house to him, can you?—A. I do not know what you mean.

Q. Well, you can't give us the name of a groceryman or baker or butcher or laundryman?—A. He doesn't need them.

Q. He doesn't need them, because he lives in Somerville. That is it, isn't it?—A. No. But if he wishes his meals, he has them with me.

Q. If he wishes his meals, he has them with you?

Mr. CALLAHAN. I guess that is all.

Mr. O'CONNELL. That is all. No questions.

CHARLES L. BURRILL, sworn.

By Mr. CALLAHAN:

Q. What is your name?—A. Charles L. Burrill.

Q. You are the State treasurer of Massachusetts?—A. Treasurer and receiver general, Commonwealth of Massachusetts.

Q. Where do you live?—A. The City Club.

Q. Listed and registered from the City Club?—A. Yes, sir.

Q. You vote from the City Club?—A. I do.

Q. Do you live at the City Club the whole year around?—A. Yes, sir.

Q. You are married?—A. Yes, sir.

Q. Your wife does not live at the City Club?—A. No, sir.

Q. As I understand it, there is a rule in the City Club where women are not admitted. That is so, isn't it?—A. Except maids and housekeepers.

Q. Except maids and housekeepers. At any rate, there is no time during the year, Mr. Burrill, at which Mrs. Burrill lives at the City Club?—A. No, sir.

Q. That is so, isn't it?—A. Yes, sir.

Q. Where does she live?—A. She is traveling in Europe and doing social work in New York, and sometimes comes on to spend the summer here in Massachusetts.

Mr. CALLAHAN. That is all.

Mr. O'CONNELL. That is all.

Mr. CALLAHAN. I think those are all our witnesses, for the day.

Mr. O'CONNELL. Now, with reference to Mrs. Catherine Tague—Mrs. Mary A. Tague, I want to introduce into the record a doctor's certificate with reference to her as follows:

"Charlestown. April 7, 1919, ——"

Mr. CALLAHAN. I want to say I haven't called Mrs. Tague, and I have done that by express agreement—not by agreement——

Mr. O'CONNELL. You notified me you were going to call her.

Mr. CALLAHAN. I also notified Mrs. Tague by special-delivery letter last night she needn't be here. Now, if you want to do that, I will read both my letters to you and Mrs. Tague for the record.

Mr. O'CONNELL. There is no need for you, if you state she isn't used as a witness. No need of encumbering the record.

Mr. CALLAHAN. I don't think so, because if you do that, I would have to read this.

Mr. O'CONNELL. I simply want to show we are acting in good faith in reference to every witness we could have anything to do with at all.

Mr. CALLAHAN. That is a good spirit. Keep it up.

Notary MANCOVITZ. This hearing is now adjourned to Friday morning at 10 o'clock.

(Adjourned to 10 a. m., Friday, April 11, 1919.)

APRIL 15, 1919.

Testimony taken in Room 443, Federal Building, Boston, Mass., April 15, 1919, at 10.30 a. m., before David Mancovitz, Esq., notary public. Abraham C. Berman, Esq., absent.

Counsel: Joseph F. O'Connell, Esq., and Arthur Harrington, Esq., for the contestant.

John P. Feeney, Esq., Timothy F. Callahan, Esq., and Vincent Brogna, Esq., for the contestee.

BERNARD J. ROTHWELL, sworn.

Mr. CALLAHAN. Will you waive the reading of the notice, Mr. O'Connell, and agree that the notice for this hearing was received?

Mr. O'CONNELL. I believe it was. I haven't seen it.

Mr. CALLAHAN. I can read it in later.

Mr. O'CONNELL. All right.

By Mr. CALLAHAN:

Q. What is your name, please?—A. Bernard J. Rothwell.

Q. Where do you live, Mr. Rothwell?—A. 12 Somerset Street.

Q. And for how long have you lived at 12 Somerset Street?—A. Almost continuously for over a year.

Q. And before that, where did you live, Mr. Rothwell?—A. I had my legal residence in Boston for several years, and lived the greater part of the time in Needham.

Q. You have a residence in Needham?—A. I haven't had for more than a year.

Q. You have a telephone number in Needham?—A. I had.

Q. You have that telephone number at present?—A. Yes. It is in disuse and just being kept alive until such time as the house is reopened.

Q. When you are living in Needham, Mr. Rothwell, Mrs. Rothwell and your family live in Needham?—A. Yes.

Q. When you are living here in Boston, is Mrs. Rothwell and the family living in Needham?—A. No.

Q. They are away at the present time?—A. Yes.

Q. Now, over a number of years, have you lived at the City Club around the 1st of April?

Mr. O'CONNELL. Just a second. I object to that and ask that my objection be noted. This inquiry should be confined to this man's—the witness's—residence during the last year. That is the only scope that is open.

Notary MANCOVITZ. Note his objection.

Q. During a number of years past, Mr. Rothwell, on the 1st of April, have you lived at the City Club?—A. I have; some time before and some time after.

Q. And you thereby gain a voting residence here in Boston?—A. I did.

Q. And do you do that for the purpose of having a legal voting residence here in Boston?—A. Yes.

Mr. CALLAHAN. That is all.

Cross-examination by Mr. O'CONNELL:

Q. Just one question, Mr. Rothwell, in order that the record may be plain on it. Do I understand you to state that you are now living at 12 Somerset Street, which is the Boston City Club?—A. I am.

Q. And that you have lived there continuously for over a year?—A. Since some time in February, 1918.

Q. Some time in February, 1918; and have your own rooms at the City Club?—A. Yes.

Q. And that is where you eat your meals?—A. Yes; usually when I am home.

Q. Of course, if you are traveling or away, that is a different story. So 12 Somerset Street, the Boston City Club, since February, 1918, has been your home continuously?—A. Yes, sir.

Mr. O'CONNELL. That is all.

The WITNESS. I should like to make a word of explanation in connection with that question, if I could, Mr. O'Connell.

Mr. O'CONNELL. If you think it is necessary, all right.

The WITNESS. My home in Needham has been closed for more than a year because of the prolonged serious illness of my wife, who is still ill. It will be reopened as soon as she recovers.

Redirect examination by Mr. CALLAHAN:

Q. One minute, Mr. Rothwell. You have been president of the City Club?—

A. No.

Q. One of the directors?—A. In former years.

Q. You have been president of the Chamber of Commerce here in Boston?—

A. Yes.

Q. Most of your furniture, all of your furniture, and most of your personal effects are still in Needham?—A. Yes.

Recross-examination by Mr. O'CONNELL:

Q. May I ask, you say that Mrs. Rothwell is seriously ill. She is away from Boston?—A. Yes.

Q. Under treatment, and while she is away, your home has been made up at the City Club?—A. That seemed the simplest solution.

Mr. O'CONNELL. Yes.

HERBERT H. BOYNTON, recalled.

By Mr. CALLAHAN:

Q. What is your full name?—A. Herbert H. Boynton.

Q. And you are the—— A. Deputy secretary of the Commonwealth.

Q. Deputy secretary of state of the Commonwealth of Massachusetts. Now, Mr. Boynton, have you brought with you some ballots that were cast in the congressional election for the tenth district which were not tabulated and counted in the final returns, as we have them?—A. Yes. The order was to bring the ballots cast by voters in the service of the United States for candidates for Congress in the tenth district in the election of November, 1918, and received after 5 p. m., November 5, 1918, and prior to November 30, 1918. I have those ballots with me.

Q. Did you bring those?—A. Six, in number.

Q. You have those ballots?—A. Yes; six in number.

Q. Let us see ballot 1, No. 1.—A. Ballot No. 1 [handing to counsel].

Q. When was that received?—A. Nine fifty-seven, November 8.

Q. Nine fifty-seven?—A. A. m.

Q. A. m., November 8. There is nothing on these ballots that would indicate the voter's name?—A. No.

Q. And in no way would we violate the secrecy of the ballots?—A. Not at all. That is protected.

[Mr. Callahan hands the ballot to Mr. O'Connell.]

Mr. CALLAHAN. Ballot described as ballot No. 1 in the vote for Congressman, it is a vote for Peter F. Tague.

Q. Now, as I understand those, Mr. Boynton, these ballots are ballots of men who were registered and who were in the service?—A. Yes.

Q. (Continuing.) Of the Government, and who were registered under the absentee voting law?—A. Yes.

Q. Now, will you let me see ballot No. 2?—A. Ballot No. 2 [handing to counsel]. Received at 10.37 a. m., November 7, 1918.

Q. This is a ballot for—I think you better read that [handing ballot to witness]. Will you read that, the congressional district vote. For whom is that?—A. For David I. Walsh.

Q. I mean for the congressional.—A. Oh, pardon me. John F. Fitzgerald, democratic.

Q. That may be described as ballot No. 2?—A. Ballot No. 2.

Mr. GOODWIN. That was November 7?

The WITNESS. That was November 7, at 10.37 a. m.

Q. Now, ballot No. 3, Mr. Boynton?—A. Eleven-sixteen a. m., November 6.

Q. And that is a vote for whom?—A. John F. Fitzgerald.

Q. That may be described as ballot No. 3.—A. Ballot No. 4, received at 11.22 a. m., November 6, John F. Fitzgerald, democratic; ballot No. 5, received at 10.03 a. m., November 8, John F. Fitzgerald, democratic; ballot No. 6, 10.30 a. m., November 7, John F. Fitzgerald.

Q. Now, when you say in those ballots that they are for John F. Fitzgerald, that is indicated by a cross?—A. By a cross.

Q. At the right of his name?—A. Yes.

Q. And that is also true of the vote of Mr. Tague?—A. Yes.

Q. Now, under that statute, the ballots that are received up until the 30th of November are counted for State officers, aren't they?—A. Yes; but not for Federal officers.

Q. But not for Federal officers under your statute?—A. Under our statute.

Q. Are those all the ballots received relating to this congressional district up until the 30th of November?—A. Yes, sir.

Q. And the last one you received there was on the 8th of November?—A. The 8th of November, 10.03.

Q. As I understand it, Mr. Boynton, those ballots now have not been credited respectively to Mr. Fitzgerald and to Mr. Tague?—A. They have not.

Cross-examination by Mr. O'CONNELL:

Q. Now, describe in full why they have not been counted?—A. Section 24, of chapter 293, as amended by chapter 295, General Acts of 1918, provides that no ballot received after 5 o'clock in the afternoon of November 30 shall be opened or counted—pardon me, that is not the citation. Section 21 is the citation given in the body of the act, section 1 of the same chapter I cited.

Q. Will you read it, please?—A. (Reading:)

"Whenever there is to be elected any United States Senator, Representative in Congress or presidential elector at a regular election, the absent voter ballots received by the secretary of the Commonwealth prior to 5 o'clock in the afternoon of Tuesday, after the first Monday in November and shall at that time be deposited by him in some safe place and may thereupon be opened and counted by him, or under his direction, for said officers. Each ballot as counted for said officers shall be returned to the voucher envelope and all such ballots shall be kept separate and apart from ballots received thereafter. No absent voter ballot received later than said day and hour shall be counted for said officers."

Q. Now, is there any record to show from where these 6 ballots came?—A. There is a record on the voucher envelope.

Q. Have you got that here?—A. No, sir.

Q. Well, I think that ought—A. Well, I question. That would disclose the person who voted the ballot, and the secrecy of the ballot would not be protected.

Q. What is there about these ballots here?—A. Is there any stamp or mark on them to indicate when they were received?—A. I told you when they were received. You will have to take my word for it.

Q. I know, but where is the evidence?—A. I have given you the evidence.

Q. Where is the evidence?—A. It has been my word for it, I told you.

Q. And are there records showing where these ballots came from and when they came in?—A. There is a record on the voucher envelope which discloses the person who voted the ballot, and I refuse to give you the information.

Q. You refuse to give us the information?—A. Yes.

Q. Now, there is nothing to prevent—there is nothing about these or any one of these 6 ballots that you have introduced here to indicate that they were official; that they are the ballots of any particular person, or that they were voted in any particular place, is there?—A. No.

Q. In other words, these may be a plain ballot marked by someone else, as far as anybody can tell, and introduced. Is that right?—A. You made that statement.

Q. So there is no stamp of any kind on any of these six exhibits?—A. No stamp whatever.

Q. And you claim that you have an envelope or information and you have refused to bring it here, and your answer is "Yes"?—A. Yes.

Mr. O'CONNELL. I ask that all the testimony given by this witness be stricken out at the present time.

Notary MANCOVITZ. It may stand, and note Mr. O'Connell's objection.

Redirect examination by Mr. CALLAHAN:

Q. Now, Mr. Boynton, those ballots are in your custody?—A. Yes, sir.

Q. And they are in your custody by reason of a statute. Is that so?—A. Yes.

Q. And if these ballots or the envelopes which contain them and describe the man's name and location are wanted by a committee of Congress, they could be had, couldn't they?—A. That would be another question, I presume.

Q. And you would then have no objection, on receiving a summons from a congressional committee, to not only give these ballots but to bring the accompanying envelope?—A. Well, as there is an act of the Commonwealth in

the question, I should submit the matter to the Attorney General for his decision.

Q. Exactly; but you personally have no objection?—A. Personally I have no objection.

Q. And in the information that you give in connection with these ballots here this morning was information that is shown on the envelopes containing these ballots?—A. Yes, sir.

Q. Now, this voucher envelope you speak of, Mr. Boynton, by whom is that prepared?—A. Presumably by the voter.

Q. The envelope itself?—A. Yes.

Q. Is it an envelope that was sent to them by your department?—A. Yes.

Q. And those are the ballots sent by your department?—A. Yes.

Q. And those are the official ballots that were prepared for the election last November?—A. Yes, sir.

Q. (Continuing.) By your department?—A. By our department.

Q. Sent to these voters and returned by them?—A. Yes.

Q. Now, there are some other votes that were received before the election day, or on election day?—A. Yes.

Q. And they have been tabulated?—A. Those have been tabulated.

Q. And counted in?—A. Counted in.

Q. Sent and received in the same manner as these ballots here?—A. Exactly.

Q. And it was through no fault of the voter, apparently, they then came in later?

Mr. O'CONNELL. Just a minute. What does he know about that? Read me, if you please, the statute.

Q. You are the official designated to receive those ballots?—A. Yes, sir.

Q. And you are the official designated to keep those ballots in your custody?—A. Yes.

Q. And those ballots have been in your custody since they have been received until now?—A. Yes.

Q. And they will remain in your custody?—A. Yes.

Recross-examination by Mr. O'CONNELL:

Q. Read me the section again that says that ballots received after a certain date shall not be opened.—A. (Reading):

"Absent voter ballots received by the secretary of the Commonwealth prior to 5 o'clock in the afternoon of Tuesday after the first Monday of November shall at that time be deposited and may thereupon be opened and counted by him, or under his direction, for said officers. Each ballot as counted for said officers shall be returned * * * No absent voter ballot received after—later than said day and hour shall be counted for said officers."

Q. Now, that is a statute law of the Commonwealth of Massachusetts, isn't it?—A. Yes.

Q. And you did open that envelope, didn't you, Mr. Boynton? Will you please answer my question?—A. Why, do you want the exact information?

Q. I am asking you questions.—A. These weren't received after the 30th of November. These were received after the day of the election and before the 30th of November.

Q. Doesn't the statute provide you should not open them after the day of election?—A. No, sir.

Q. What does it provide?—A. It provides after the 30th of November they shall not be opened and counted. These were received between the day of the election and the 30th of November.

Q. How does it come this is the first information from your office that Mr. Tague has got these kind of votes were cast?

Mr. CALLAHAN. I do not suppose you can answer for Mr. Tague?

A. You will have to put that in another—

Q. Let me put it in a very direct way. You are the official in whose custody all the election matters are left, as far as the secretary of state's office is concerned. That is true, isn't it?—A. Yes.

Q. And you knew when those ballots were opened the condition of those 6 ballots, didn't you?—A. Yes.

Q. You learned that some time in November last?—A. Yes.

Q. This is now the 15th day of April?—A. Yes.

Q. Will you tell me, as an official of this Commonwealth, why you didn't convey the information to Mr. Tague about the condition of those 6 ballots?—A. Is it necessary for you to refer to your records to show that evidence I gave the first day I was on the stand?

Q. Will you please tell me this: That from the time in November last that those ballots were opened by you and the information brought to you, why it is you did not give that information to Mr. Tague until it is coming from you on the stand here?—A. I answered that question.

Q. I am asking you the question.—A. That information was given the first day I was on the stand as to how many ballots were cast. Mr. Tague remembers it distinctly.

Mr. CALLAHAN. That is the first time we heard it.

Q. How many were cast? Was there anything said about ballots being cast like this?—A. Those 6 ballots were given in the information, five for Mr. Fitzgerald and one for Mr. Tague.

Q. And that was a few weeks ago. Four or five weeks ago. Will you tell me whether you, as an official whose duty it was to collate and to get information concerning the ballots and the votes, why it was you didn't officially convey that information to Mr. Tague who was counted and who was voted on?—A. Because the ballots had no value.

Mr. O'CONNELL. That is all.

Redirect examination by Mr. CALLAHAN:

Q. Mr. Boynton, just to clear this up. You did not officially convey that to Mr. Tague, neither did you officially convey that to Mr. Fitzgerald or his attorneys, and you might tell now when was the first time I discussed this thing with you, the question of these 6 ballots?—A. I think a few days ago—within three days. I should think.

Mr. CALLAHAN. Within three days. That is all.

Mr. O'CONNELL. That is all, Mr. Boynton.

Mr. CALLAHAN. Oh, pardon me. Just to clear up one more thing, Mr. Boynton, about opening those ballots before the 30th of November. That is necessary absolutely in order to determine or to tabulate votes for State officers, isn't it?

The WITNESS. Yes.

Mr. CALLAHAN. That is all.

Mr. O'CONNELL. That is all.

Mr. CALLAHAN. Is Mr. Francis E. Heedy here?

Mr. O'CONNELL. No; but I have a doctor's certificate I have just received from his attending physician, the following certificate, dated April 15, 1919:

To whom it may concern:

This is to certify I have this day examined and professionally attended Francis E. Heedy at his home, 5 Marion Street, Charlestown, and I find evidences of acute appendicitis.

In my opinion, he should remain in bed for several days, owing to the severity of the case, in order that he may be kept under observation, under proper conditions, as urgent and dangerous conditions may develop at any moment necessitating immediate operation.

JOHN DUFF, M. D.

APRIL 15, 1919.

Suffolk, ss:

Then personally appeared the above-named John Duff, and under oath states that the foregoing statement by him made is true.

J. FRANK O'BRIEN,
Justice of the Peace.

My commission expires May 8, 1925.

I would like to offer that.

(The doctor's certificate in reference to Francis E. Heedy is admitted in evidence and marked "Contestant's Exhibit 115.")

Mr. CALLAHAN. I at this time, would like to offer this summons to Francis E. Heedy, 5 Marion Street, Charlestown, and the return on the summons:

BOSTON, April 10, 1919.

UNITED STATES OF AMERICA,

Massachusetts district, ss:

Pursuant hereunto I have this day served the within subpoena on the within named Francis E. Heedy by giving to him in hand at 5 Marion Street, Charles-

town, in said district, a true and attested copy of the within subpoena, together with \$1.05, his legal fee for attendance and travel.

JOHN MITCHELL, *United States Marshal*.
By BENJAMIN J. SCULLY, *Deputy*.

(The summons to Francis E. Heedy is admitted in evidence and marked "Contestee's Exhibit 17.")

Mr. O'CONNELL. In order that the record may appear clear that summons that you have just read in is the summons served on Mr. Heedy, concerning whom Dr. Duff's certificate has just been read.

Mr. CALLAHAN. Is Frederick A. McGrath here?

Mr. O'CONNELL. Mr. McGrath is an undertaker in East Boston, and he sends this letter:

"APRIL 15, 1919.

"I regret I will be unable to be present as a witness to-day, as I must take charge of the funeral of William Morgan, 8 Atlantic Street, Winthrop, to-day.

"Very truly,

"FREDERICK A. McGRATH."

A messenger came to my office stating that just as soon as the funeral was over, he will come here, and he hopes to be here before 1 o'clock.

Mr. CALLAHAN. I would like to read this summons to Frederick A. McGrath, 103 Meridian Street, East Boston, and the return on the summons.

BOSTON, April 10, 1919.

UNITED STATES OF AMERICA,
District of Massachusetts:

I hereby certify that I this day served the within subpoena on the within named Frederick McGrath by leaving at his last and usual place of abode, 103 Meridian Street, East Boston, in said district, in the hands of John Kelley, an adult person in charge of said premises, a true and attested copy of this subpoena, together with \$1.05, his legal fee for travel and attendance.

JOHN J. MITCHELL, *United States Marshal*.
By JOHN H. BACKUS.

Is Daniel Buckley and Merton L. Emerson here?

(No response noted by stenographer.)

I was going to read into the record our offer of proof in connection with Mr. Buckley and Mr. Emerson and Mr. Heedy.

Mr. O'CONNELL. Before that is done, I believe attention ought to be called to this [indicating] which has just been handed to me and which was handed to Notary Mancovitz, which reads as follows:

Mr. DAVID MANCOVITZ,
Boston, Mass.

SIR: What purported to be a summons for me to appear at the Tague-Fitzgerald hearing, April 15, 1919, at 10 o'clock in the Federal Building, has been left with me. I am a resident of Bristol County, and as such I believe it is not within your jurisdiction in this case to summons me to this hearing.

The statutes provide a proper way for taking my testimony, and if you wish to take it in the way provided by law, I will be very willing to give it.

Merton L. Emerson, who has also been summoned in this case, is a resident of Norfolk County, and as attorney I am notifying you he takes the same position in this matter.

Respectfully,

DANIEL F. BUCKLEY.

This was handed to the notary at the same time that it was handed to me. Now, then, I object to your reading into the record any statement concerning these witnesses or what they may purport to say, in view of what has been stated here. They have not been properly summoned, both of them being residents outside of this county.

Mr. CALLAHAN. Now, will you just permit us to show how they have been properly summoned, and then you can—this [indicating] is a summons to Merton L. Emerson, 100 Boylston Street, Boston. The summons was dated the 9th of April, and the return on the summons is,

BOSTON, April 10, 1919.

UNITED STATES OF AMERICA,
Massachusetts District:

I hereby certify that I have to-day summoned the within named Merton L. Emerson to appear and give testimony as within required by delivering an

attested copy of this summons to him in hand at said Boston, with 85 cents allowed for fees for attendance and travel.

JOHN J. MITCHELL, *United States Marshal.*
CHARLES A. BANCROFT, *Deputy.*

One hundred Boylston Street is the place of business of Mr. Merton L. Emerson.

The summons to Daniel F. Buckley, 30 State Street, Boston, dated the 9th of April. The return on the summons is—

UNITED STATES OF AMERICA,

BOSTON, April 10, 1919.

Massachusetts District:

I hereby certify that I have this day summoned the within named Daniel F. Buckley to appear and give testimony as within required by delivering an attested copy of this summons to him in hand at said Boston with 85 cents allowed as fees for attendance and travel.

JOHN J. MITCHELL, *United States Marshal.*
By CHARLES A. BANCROFT, *Deputy.*

Now for the record, I want to state that 100 Boylston Street is the place of business of Mr. Merton L. Emerson, and that 30 State Street is the building in which Daniel F. Buckley, an attorney, has his law office, and that both of these summons were served within this county, were served in hand, and were served with the fee. That besides the returns of the deputy marshals, the letter indicates that both these men received their summonses.

In connection with these three witnesses, we were going to show—

Mr. O'CONNELL. Now, then at this time I am going to object and ask that no statement be allowed in the record concerning any of these witnesses, because section 115 of the Revised Statutes says plainly that no witness shall be required to attend a hearing of this kind outside of the county in which he resides, and both of these men live outside of Suffolk County, Mr. Buckley living in Bristol County in the town of North Easton, and Mr. Emerson living in the town of Braintree, which is in Norfolk County.

Notary MANCOVITZ. He may make his offer of proof.

Mr. CALLAHAN. We were going to show by these witnesses that Mr. Buckley was the attorney for the Pneumatic Tube Co., having the control of the postal tubes in this State and in other parts of the United States, and that Mr. Merton L. Emerson was a director of this postal tube company, and that Francis E. Heedy was the treasurer of Mr. Tague's campaign for the mayoralty in the fall of 1917; and that these same men, Mr. Emerson being a trustee or a director, and Mr. Buckley being attorney for that company, contributed a substantial sum of money to the campaign of Mr. Tague while legislation was pending in Congress relating to the control or the use of these postal tubes.

Mr. O'CONNELL. I ask at this time that all be stricken from the record.

Notary MANCOVITZ. Note his objection.

Mr. O'CONNELL (continuing). Because it was improper to have made such a statement on account of the witnesses not having been properly summoned, and further that the whole thing is immaterial because if it be so that either of these two men contributed to Mr. Tague's campaign committee, they had a perfect right to do so, and the statement has been already made and furnished to the city clerk of the city of Boston under oath in compliance with the statutes of Massachusetts, and there was no evidence of any legislation pending at that time.

Notary MANCOVITZ. Note Mr. O'Connell's request.

Mr. CALLAHAN. Is Mr. Joseph L. Kane here?

(Mr. Harrington leaves room to get Mr. Kane.)

Notary MANCOVITZ. A recess will be taken for 10 minutes.

(Short recess.)

Mr. O'CONNELL. I have here the doctor's certificate in reference to Mrs. Goggins, which you asked for the other day.

Mr. CALLAHAN. Oh, yes; the certificate.

Mr. O'CONNELL. I will read into the record now the doctor's certificate in reference to Mrs. Goggins, who was to have appeared here a week ago and who was absent on account of illness. It is as follows—it is from the office of Joseph P. Lyons, M. D., 1 Dexter Road, and Thompson Square, Charlestown:

"Mrs. Peter F. Goggins has been in poor health for several years past and has been treated by me several times. Her attendance at a public hearing or a

trial I should consider detrimental to her health, owing to the nervous strain incidental to same."

JACOB WASSERMAN, Esq., sworn.

By Mr. CALLAHAN:

Q. What is your name, please?—A. Jacob Wasserman.

Q. You are an election commissioner of the city of Boston?—A. I am.

Q. And you are an attorney?—A. Yes.

Q. And were you election commissioner during the past year when they had the recounts in this congressional fight?—A. Yes.

Q. You are a Republican, Mr. Wasserman?—A. Yes.

Q. And you are a Republican member of that board?—A. I am.

Q. That is a bipartisan board?—A. A bipartisan board.

Q. Two Democrats and two Republicans?—A. Yes.

Q. At the recount of the election, Mr. Wasserman, what would you say as to the way that was conducted? I have now reference to the propriety of the occasion.—A. It was conducted openly.

Q. Yes.—A. And without any trouble of any kind.

Q. Now, when you say "openly," who were there, as you recall it, at the recount?—A. The four commissioners, representatives of Mr. Tague, and Mr. Fitzgerald.

Q. Your board saw to it that Mr. Tague had adequate representation or the opportunity for adequate representation at that recount?—A. He did have.

Q. And it was arranged so that he could have two watchers at each table, Mr. Wasserman?—A. Yes.

Q. Now, the recount of these ballots for the election was held in the outer room; your big work room, wasn't it?—A. Yes.

Q. And the questioned or disputed ballots were then brought into the office of the commissioners?—A. Yes.

Q. And who was present when those disputed or questioned ballots were gone over?—A. All of the commissioners, and the representatives of both parties.

Q. That is, Mr. Tague was there a great deal of the time?—A. Mr. Tague was there.

Q. And Mr. O'Connell, his attorney?—A. Mr. O'Connell, Mr. Goodwin, Mr. Harrington, Mr. Feeney, myself, yourself, and I think Mr. Brogna was there part of the time.

Mr. O'CONNELL. Mr. Field and Mr. Martin.

The WITNESS. Mr. Field.

Mr. O'CONNELL. Richard F. Field.

The WITNESS. I think he was there, too.

Mr. O'CONNELL. And Mr. Joseph Martin.

Q. There were also members of the press there?—A. Yes.

Q. Were there?—A. Yes.

Q. And they were there at the invitation of your commission?—A. Exactly.

Q. Each newspaper in Boston was represented?—A. I believe so.

Q. Now, in determining those questioned or disputed ballots, Mr. Wasserman, were they all determined there in the presence of counsel and in the presence of the press?—A. Yes.

Q. Now, as I understand it, the ballot as it was questioned, was brought in; your board heard the arguments of counsel, and then determined the ballots?—A. Exactly.

Q. And that was all done in that room?—A. All done in that room.

Q. Was there any difference between that procedure and the procedure at the time of the recount of the primary ballots?—A. Yes.

Q. And what was that difference?—A. At the primary recount the ballots were brought into the library and counsel representing each side were admitted, argued as to each contested ballot and then counsel were sent out and the board sat in executive session and decided them, and called in counsel and informed them how they decided the ballots.

Q. And at this recount it was all done in this outer room, in the presence of the newspaper men and the counsel?—A. Exactly.

Q. Now, at the recount of the election, the ballots for this election, was there any attempt on the part of the election commission to deprive Mr. Tague or his attorneys of the completest examination of these ballots?—A. No; the attempt was to afford them the fullest opportunity to examine them.

Q. And was that done?—A. That was done.

Q. Now, you have in mind, Mr. Wasserman, a notice that was sent to Mr. O'Connell and to Mr. Tague in reference to a list of names submitted by them?—A. Yes.

Q. It was a list of names—it was a petition, rather, to throw those names off the voting list; wasn't it?—A. Yes.

Q. That is a petition that must be submitted according to statute—A. Exactly.

Q. Well, now, do you recall a notice having been sent to either Mr. Tague or Mr. O'Connell to come to a hearing before your board on this matter?—A. Yes.

Q. Have you any knowledge of any other attempts to get either Mr. Tague or Mr. O'Connell before your board on that matter?—A. Yes.

Q. And what are they?—A. Why, I spoke to Mr. O'Connell the day following, and I think one or two days subsequent to that, asking him—telling him that we were ready to go on with it at any time he was ready. He informed me that he would let me know later as to when he would be ready, and we received no information.

Q. After the formal notice sent by your board and the subsequent personal notices by yourself, did either Mr. O'Connell or Mr. Tague or anybody representing Mr. Tague appear before your board on this matter?—A. They did not.

Q. And was your board during all that time ready to hear either Mr. Tague or his counsel on that matter?—A. It was.

Q. At the time of the recount of the election, was there any disorder in the election board that interfered in any way with the proper recount of those ballots?—A. I should say not.

Q. Do you recall the incident, Mr. Wasserman, when Commissioner Finigan said something about "being wrong and staying wrong"?—A. I do.

Q. Will you tell us what that incident was, now, what happened there and what caused him to say that?—A. Why, the commissioners sat at the back of several tables which had been stretched across the commissioners' room and Mr. Flynn came around the back to look at certain lists that were lying on the table. Mr. Finigan ordered Mr. Flynn to go around to the other side of the table, and Mr. O'Connell said to Commissioner Finigan, "You are wrong." Mr. Finigan says, "If I am wrong and you are to be my judge, I will stay wrong."

Q. Now, that was in reference to a Mr. Flynn?—A. In reference to a Mr. Flynn; yes.

Q. And this Mr. Flynn was a watcher or a representative for Mr. Tague?—A. Yes.

Q. And Mr. Finigan had some personal reason for keeping that particular person away?—A. Apparently.

Q. That was at the primary?—A. That was at the primary recount.

Q. There was no incident that marred the serenity of the recount at the election?—A. Not at all.

Q. When Mr. Flynn was kept away, at that time the counsel were present for Mr. Tague?—A. They were.

Q. And they had full opportunity to make that examination?—A. Yes.

Cross-examination by Mr. O'CONNELL.

Q. Now, Mr. Wasserman, you have told two different stories in reference to that incident in reference to Mr. Finigan, haven't you?—A. Not that I recall.

Q. Do you recall your testimony before the ballot law commission?—A. I think so.

Q. Did you mention that incident in reference to Mr. Flynn at that time?—A. I did.

Q. Are you sure of that?—A. Fairly sure.

Q. Do you mean to say to me you ever mentioned Mr. Flynn up to that ballot law commission hearing?—A. That is my recollection.

Q. Are you ready to say positively you did?—A. To the best of my recollection, I did.

Q. Well, let me call your attention to what took place there. Do you recall when I asked to see the record of the men who had voted at that primary?—A. Yes.

Q. And do you recall that the names—the voting list was brought out and put on the table?—A. Yes.

Q. Do you recall that after I had looked down the first page and counted it off, that then somebody put a piece of paper over the names so I could not see them?—A. No.

Q. You don't recall that?—A. No.

Q. Well, isn't that what all the argument was about between Mr. Finigan and myself? Did I not protest I had a right to see the names?—A. I think not.

Q. Well, were you there at the time?—A. I was.

Q. Do you recall my arguing that I had the fullest right to see the names?—A. I think not.

Q. Do you recall that your board wrote a letter to the corporation counsel asking whether I would have a right to do that or not?—A. I think not.

Q. Do you recall that there is a letter in exhibit here——

Mr. CALLAHAN. An entirely different thing.

Q. That was sent to the corporation counsel?—A. I do not know what exhibits are here.

Q. You were here the other day when Mr. Burlen was examined and produced a letter, were you not?—A. No; I wasn't. I was here for a few moments, but I wasn't here when the letter was produced.

Q. In that letter which has been produced—and the number of the exhibit I can't recall just now because the exhibits aren't here—but I refer to Mr. Whiteside, corporation counsel, his letter answering a communication from your board, and in that letter it says, "In reference to the inspection of the ballot list, I advise you that Mr. Tague should have full opportunity to see it all—check lists." In substance those being the words. Do you recall that?—A. I recall a letter from the corporation counsel.

Q. Don't you recall that the matter that I have just substantially stated was incorporated into that letter?—A. I would have to see the letter first.

Q. Now, then, is your memory of what took place there practically on the same basis as to your recollection of what that letter was?—A. My memory is fairly clear.

Q. But you haven't any clear notion as to what that letter contained?—A. A fairly clear notion.

Q. Don't you recall it referred to the fact and advised your board that Mr. Tague should be given opportunity to inspect the check lists?—A. I should have to see the letter.

Q. Don't you recall that fact about it at all?—A. There was some mention of check lists made in the letter.

Q. Wasn't that in response to a question of your board as to whether Mr. Tague had a right to look at those check lists?—A. To a certain extent; yes.

Q. You withdraw your testimony of a few moments ago that there wasn't any such thing?—A. No; I don't.

Q. Do you?—A. Not at all.

Q. Not at all. Do you recall which member of the board refused to allow me to inspect the names of those who had voted?—A. Why, my impression is that there wasn't no one objected to your seeing the names.

Q. Do you recall anybody putting a piece of paper over the names?—A. No.

Q. Was there paper put over the names of those who voted?—A. I think not. My recollection is the paper was put over the description of the persons.

Q. What description of the persons is there on that voting list?—A. The height and their age.

Q. Can you tell me any reason why the paper should have been put over the description of the man, and not over the man himself?—A. Yes.

Q. What was it?—A. Why, so that—so as to prevent possible fraud in the future.

Q. Will you explain what you mean "to prevent possible fraud" by giving me at that examination an opportunity to see the description, the official description of the man who voted?—A. So as to prevent anybody from sending in persons of practically the same description, height and age, to vote.

Q. But the primary was over, wasn't it?—A. The election wasn't over.

Q. But the examination was going on in reference to those who had voted, was it not?—A. True, but we had to prevent any information which would give a person a description of the voters, so as to prevent fraudulent voting.

Q. You showed them all up at the ballot law commission without any desire to keep them back, and that was before election, didn't you?—A. The ballots were subject and the lists were subject to the order of the ballot law commission. We had nothing to do at all with, we had nothing at all to do with, it.

Q. Do you know any law that gives you the right to withhold any information as to who the man is; that is, claims to vote under a certain name?—A. I can't quite understand that question.

Q. Do you think there is any such law?

Mr. CALLAHAN. He says he does not understand your question.

Q. I asked you, do you know any law in Massachusetts that justifies you, as an election official, from giving the fullest information as to the character of a man who is supposed to have the right to vote?—A. As to the character of the man?

Q. As to anything about him—the fullest description.—A. As to his height and age, etc.?

Q. As to everything in reference to him. Do you know whether there is such a law?—A. Yes; my impression is——

Q. Can you call our attention to it?—A. It is in the acts of 1913, chapter 835.

Q. That is the election law, isn't it?—A. Yes.

Q. Is there anything in that law which you know gives you the right to withhold information as to who the man is that is purporting to vote under a certain name?—A. I should think so.

Q. What?—A. Yes.

Q. Can you refer to it here?—A. I haven't it here. I haven't had occasion to refer to it recently.

Q. As a matter of fact, Mr. Wasserman, the fact is this: You had never had any experience as an election commissioner up to shortly before this primary recount?—A. That is true.

Q. And you, as a matter of fact, had never read the election law up to the day of the primary recount started by Mr. Tague?—A. I think I have.

Q. Didn't you state at the hearing there that you had never read the law? Didn't you hold the hearing up several times in order to give you a chance to read particular sections of the law which you said you had never known before?—A. No, sir.

Q. Didn't you, as a matter of fact, Mr. Wasserman, openly, in the presence of Mr. Miller and myself, Mr. Tague, Mr. Harrington, and others who were there, state that we would have to hold up because you were very unfamiliar with it, that you were the latest member and you were only in there a short time? Don't you recall that?—A. As to one particular phase; yes. I remember one particular incident where I said that I wasn't sure that the election board had any right to give certain information and I wanted to make sure we had that right before we proceeded. That was at the close of one evening session, as I recall it.

Q. Didn't you state that more than once?—A. I think not.

Q. Didn't you state it at least a dozen times during the first and second days; the first day, that you knew nothing about that law and were frank enough to confess it?—A. Well, I am frank enough—I was frank enough to confess I did not know a whole lot about it, but I had read it, and certain particular sections I wanted to refresh myself on.

Q. Now, let us take up another feature. You recall Mr. Finigan at the recount on the election matter—do you recall the incident where I sought to have certain precincts in ward 6 recounted, and it met with bitter opposition from Mr. Finigan, after Mr. Burlen had, as chairman of the board, said that the precincts should be recounted?—A. Well, I do not recall distinctly of any bitter opposition.

Q. You do not? Do you recall that there was over an hour's argument before the board finally allowed us to have those two precincts recounted?—A. No; I do not.

Q. Do you recall Mr. Finigan getting up and leaving the room and saying that he would not participate in the recount and wouldn't sign the recount, no matter what it showed?—A. As you talk about it there may have been some suggestion of that kind made.

Q. Didn't Mr. Finigan get up from the board in great anger and smash the table with his fist and say, "I do not care what the result is, I will never sign the result of the recount," and leave the room?—A. In connection with what incident was that?

Q. In connection with the recount of the election in precincts 1 and 2 of ward 6?

Notary MANCOVITZ. You mean the re-recount.

A. The only incident I recall was that the board had already recounted certain precincts. It may have been precincts 1 and 2 of ward 6. Then you or somebody representing you made a request that we hold a second recount of the same precincts, for what purpose I do not now recall, and I think that met with some objection, but finally after the board discussed the matter, we all agreed to do it again.

Mr. CALLAHAN. It was done again?

The WITNESS. That is my impression.

Q. Do you recall in order to do that you withdrew from the room and asked Mr. Finigan to come in and he couldn't come in at first and finally Mr. Burlen and yourself came out and begged him to go in, and after further consultation you came out and urged him and agreed to let it be done, and Mr. Finigan got up and said, "I want it distinctly understood that this is against my protest"? Do you recall that?—A. Well now, you have stated four different incidents.

Q. No; I am giving you the whole thing.—A. I think, well—I think as to part of it you are wrong. As to some of it you are right.

Mr. CALLAHAN. Entirely wrong.

Q. Which part of it do you think I am wrong in?—A. The begging and the urging on the part of the board, as to Mr. Finigan.

Q. All right; tell us your view of it.—A. We simply retired, as I recall it, and sat down and discussed the matter, and decided to give you every possible request that we could give you which was within possible bounds of reason.

Q. Didn't you have to come out of the room to get Mr. Finigan to go in there?—A. That I do not recall.

Q. Did you?—A. Might have done that.

Q. Why do you say you think I am wrong about that if you do not recall it?—A. I said you were wrong as to our begging and urging. We might have gone out of the room and asked him to come in.

Q. You might have gone out of the room and asked him to come in?—A. But I do not believe we had to beg or urge him to come in.

Q. He wouldn't go in at the first invitation anyway. That is a fact, isn't it?—A. That may be so. I am not sure as to that.

Q. You want to quibble on whether you begged and urged him?—A. That is your question.

Q. Now, whether that differed from asking him—but as a matter of fact, a request was made of him to come into the room after your other commissioners had decided to go in there and he did not go with you. That is true, isn't it?—A. I do not recall particularly as to that.

Q. Now, do you recall, going along a little further in the incident, do you recall when the votes were recounted again in that block of ward 6, precincts 1 and 2, it disclosed that there was a gain for Mr. Tague of 8 votes?

Mr. CALLAHAN. Now, you never showed that. You just had Mr. Tague say that but never showed it.

Mr. O'CONNELL. I say it.

Mr. CALLAHAN. Oh, well, show it.

Mr. O'CONNELL. I am doing it.

Mr. CALLAHAN. You say it; had Tague say it. Now, show it by the record.

Q. Don't recollect?—A. I can't say. I do not recall that.

Q. Now, do you recall when that was announced?—A. I say I can't say as I do recall that.

Q. Oh, your voice dropped. Excuse me. I don't catch some parts of your sentences.

Q. Do you recall that there was any change made as the result of that recount?—A. I do not.

Q. Do you recall the incident of Mr. Finigan getting up when there were some changes announced and saying that he never would sign the result, no matter what it was?—A. He did sign the result, didn't he?

Q. I am not asking you that, sir. Do you remember him doing so?—A. Of signing the result?

Q. Of saying that we would not sign?—A. I do not.

Q. Were you there?—A. Of course I was there.

Q. You want to say you did not hear Mr. Finigan get up and make that statement and leave the room in anger?—A. I won't say that he did that.

Q. You won't say that he did not, will you?—A. No; I won't. My recollection as to that particular incident is kind of hazy. Mr. Finigan is a little bit excitable at times. He might have felt your attitude was unreasonable and perhaps got worked up over it, whereas we were calm and decided no matter how unreasonable you were.

Q. You are very voluble with your talk, but seem to be very deficient as far as memory is concerned. Just answer my questions. Now, are you attempting to protect Mr. Finigan in this manner in which you are testifying?—A. He needs no protection.

Q. Are you trying to protect him?—A. How should I try to protect a man that needs no protection?

Q. You said he was quite excitable?—A. Yes.

Mr. CALLAHAN. Mr. Finigan was on the stand the other day and he could have have asked him all these questions and he did not do it.

Q. You said Mr. Finigan was quite excitable, didn't you?—A. Yes.

Q. And that excitability displayed itself on several occasions during the recount, did he not?

Mr. CALLAHAN. Now, Mr. Notary—

A. As I recall it, it only displayed itself when he thought certain requests were being made were unreasonable requests.

Q. I do not ask you what you think. I am asking you whether or not it did display itself several times?—A. I should say not.

Q. How many times?—A. It might have been once.

Q. Wasn't it more than once?—A. I think not.

Q. You are very positive of that now?—A. I feel my recollection is becoming clearer as we discuss the matter.

Q. Why should you say Mr. Finigan is very excitable if he only got excited on one occasion?

Mr. CALLAHAN. Now, wait, wait. I do not think you need to answer that.

Notary MANCOVITZ. If he can give his opinion he can give it.

Q. Go ahead and answer the question.—A. Mr. Finigan is the type of man that will accede to almost any reasonable request.

Q. I am not asking you about that.—A. Answering your question, I have always found when unreasonable requests are made of Mr. Finigan to the extent of something that ought not to be asked for, he gets worked up. After you discuss the matter with him quietly he calms down and agrees to everything you want him to do.

Q. In other words, you know how to work Mr. Finigan?—A. I think I know how to handle him to a certain extent diplomatically.

Q. And if a person doesn't know how to handle him, he is going to be a very difficult fellow to get along with?—A. No reasonable fellow will find him difficult to get along with you.

Q. In other words, Mr. Finigan, being a man of that character, unless a man asks and does things Mr. Finigan thinks are all right, Mr. Finigan is going to display resentment and unreasonableness?—A. Not always; no. All depends on what is asked of him.

Q. Now then, you stated that you had seen me and asked me when I was going on with the hearing in reference to the illegal registration?—A. Yes.

Q. You saw me at the statehouse?—A. Yes.

Q. And that was at the time that the hearing was being held by the ballot law commission?—A. Yes.

Q. And that was about five days before election, was it not—five or six days?

Mr. CALLAHAN. No, no.

Q. Wait a minute now.—A. I should say it was the day after the time set for the hearing by our board. I can't recall it was 5 or 10 days.

Q. Anyway, it was when the ballot law commission hearing was on?—A. Yes.

Q. And inasmuch as that did not get over until five days before election—

Mr. CALLAHAN. That is not so. That is not so.

Mr. O'CONNELL. Wait a minute.

Mr. CALLAHAN. I know; but ask the proper questions.

Q. Now, Mr. Wasserman, you were one of the witnesses before the ballot law commission?—A. Yes.

Q. And you know the ballot law commission hearing was going on when your board sent me notice to appear before them to conduct this other hearing, didn't you?—A. I think on that particular afternoon it wasn't going on.

Q. Did you think it was sufficient notice to give a man to give a lawyer 15 minutes to get his client and witnesses together?—A. Why, under those circumstances I certainly do.

Q. And the list of names that were to be considered was over 200 names, a very long list anyway?—A. Yes; but you did not have to bring the witnesses down. All you had to do was to make a prima facie case. Probably had one investigator or two.

Q. On all of that?—A. Yes, of course. I assume you must have had an investigator around to find out. We were there ready to listen to him talk,

and if we were satisfied the evidence had any force at all in it we would send out summonses to all of them.

Q. Now, you know, as a matter of fact, don't you, as a man interested in election matters, that the decision of the ballot law commission which was sitting on our appeal from the actions of your board, didn't send down its decision until Tue-day afternoon before the State election?—A. I do not recall.

Q. You were familiar with the fact that the hearing involved the honor and the actions of your board, didn't you?—A. Yes, I think perhaps you made certain allegations as to our board.

Q. And you were interested as a board to find out what the result of the ballot law commission was, were you not?—A. Why, we were interested, naturally.

Q. And the papers were carrying a large amount of notice in reference to the hearings that were going on at the statehouse concerning the recount held by your board. That is true?—A. I believe there was.

Q. So you were familiar with the status of the case as it was going on and you knew that the case was not over until Tuesday prior to election, didn't you?

Mr. CALLAHAN. That is not so.

A. I do not know that.

Q. You did not know about it probably until Wednesday?

Mr. CALLAHAN. That is not so.

Mr. O'CONNELL. I know it is so.

Mr. BROGNA. Several days you did nothing. They weren't sitting.

Mr. O'CONNELL. The records show.

Mr. BROGNA. Merely waiting for a decision.

Mr. O'CONNELL. Please wait a minute. The record that is already in here, which was put in by Mr. Cunningham, and substantiated by the secretary of state, was that the final decision was not rendered until Tuesday prior to election.

Mr. CALLAHAN. We can agree, perhaps, what day the decision came down. It is true there was an interval of four or five days when you were doing nothing.

Mr. O'CONNELL. Well, if there was ever a day when I was doing nothing at that time I would like to know when it was.

Q. Now, Mr. Wasserman, you haven't any papers here showing when any action was taken by the election commissioner in reference to those names?

Mr. CALLAHAN. The papers are already in.

Q. You haven't any papers, have you, with you?—A. In reference to those men?

Q. Yes. In reference to what I am asking you about concerning the action of your board in reference to Mr. Tague's petition?—A. No; no papers here with me.

Q. Did not bring any papers?—A. No.

Q. Let me ask you this question: Assuming that the records already show—

Mr. CALLAHAN. Do not assume anything.

Q. (Continuing.) That the ballot law commission did not make its findings until Tuesday prior to election, did your board at any time notify Mr. Tague, or myself or any of his attorneys after that decision that you were ready to take up the question of Mr. Tague's complaint against illegal registration?—A. Yes.

Q. When?—A. Why, I met you on the street and asked you whether you intended to go ahead with it.

Q. What date was that?—A. I think perhaps after the ballot law commission decision came down.

Q. Have you any memorandum of that fact?—A. Memorandum? No. My recollection.

Q. Did you make any written note of that fact?—A. No; no written note of it.

Q. Is it in the record of your board?—A. No.

Q. All you have is recollection you may have met me on the street some day?—A. Yes; and asked you whether you intended to go ahead with it. I gathered from what you said you did not care anything about it.

Q. Did you call that fact to the attention of your board?—A. My recollection is I told the board that from what I gathered from what you said and what your associate said, you did not care anything about it at all.

Q. What associate do you refer to?—A. Mr. Goodwin and Mr. Harrington.

Q. Had you talked with them?—A. I may have talked with them. I think I talked with Mr. Goodwin one day.

Q. What day was that?—A. Either up to the State House—I can't give you the exact date. I gathered from what he said you did not care anything about it.

Q. That was while the ballot law hearing was going on up there?—A. Yes; I think so.

Q. I am asking you in reference to the time after the ballot law commission made its finding; did you have any talk with Mr. Goodwin?—A. I think not; I do not recall.

Q. Did you have any talk with Mr. Harrington?—A. No; I had with you.

Q. You can't tell the date?—A. No; may have been a day or so after the——

Q. Do you want to tell me you saw me any time between that time and election day? Now, I am going to ask you to reflect what you are stating for a fact regarding the whole affair—do you mean to tell me that you saw me at any time between the final date of the ballot law commission hearing when they announced their decision, and election day?—A. My impression is I did.

Q. All it is is impression?—A. And recollection.

Q. Now, tell us, did you, as a member of that board, take any action as to the registration of these men that were complained of, to find out whether they were entitled to vote or not?—A. Certainly.

Q. What did you do?—A. Why, we had the lists. You mean any personal acts on my part?

Q. Yes.—A. I did nothing personally, but my associate member of the board did, of course, in connection with my activities as a member of the board, naturally.

Q. All you did was—all that they did was to look at the list to see if the names were on the list, wasn't it?—A. We looked at the police list to see if they were listed on April 1.

Q. Yes.—A. Then looked up the voting list to see if they were properly registered.

Q. Yes.—A. So, when we found that out we were satisfied so far as we were concerned they were properly registered and entitled to vote. Then the next step in your petition should have come from you. You should have come in with your witnesses.

Q. I am asking you what you did.

Mr. CALLAHAN. Oh, wait, wait. He will tell you.

A. Here is what we did. We sent you notice we were ready to go ahead and listen to what evidence you had.

Q. What else did you do?—A. I notified you personally the next day. I said, "We are ready to go ahead."

Q. What else did you do?—A. I think after the ballot law commission decision came down, or perhaps the same day or next day, I met you and says, "What about this petition?" You said—from what you said I gathered you did not care anything about it.

Q. Where did you meet me?—A. My impression is near Thompson's Spa.

Q. Your impression is you met me near Thompson's Spa?—A. Exactly.

Q. At what time?—A. I can't——

Q. Now, in other words, what your board did, after they were told by Mr. Tague, you went and looked at the list. Tague's list told you those names were on the voting list, didn't it? He complained about them being on the voting list?—A. Yes, sir.

Q. And you went to the voting list and you found they were on the voting list?—A. Yes; and they were properly on the voting list.

Q. He told you they were on the list, didn't he?—A. No; but we went to see if they were properly on the voting list.

Q. What you did was to go to the police list, or assessors' list, to find out whether it was on that list?—A. On the police list, exactly. If they were on the police list, so far as we were concerned, they were properly on the police lists.

Q. But you did nothing to find out where these men actually did live, did you?—A. We were satisfied as to where they lived.

Q. In other words, the only thing that satisfied you was you found these names on the list?—A. Yes.

Q. Now, my question is this: Did you do anything to find out where any one of those men complained of really did live?—A. Why, having already found out where they really did live, there was nothing else for us to do.

Q. Won't you answer my question yes or no? Did you do anything to find out where any man complained of really did live?—A. Certainly.

Q. What did you do, other than look at the list?—A. That is what we did—looked at the list.

Q. You did not do anything beyond that?—A. Certainly not. We are not obliged to do anything beyond that.

Notary MANCOVITZ. I think that is all, Mr. Wasserman.

Mr. O'CONNELL. You wait a minute. I am not through with him.

Q. Well, now it is your duty as election commissioner, to keep the voting lists of the city of Boston in the — so that nobody will vote who hasn't a right to vote, isn't it?—A. No; it is not.

Q. Then you do not care, as election commissioner, whether a man has a right to vote or not? If you find his name on the list, that is all you need to care about?—A. All we need care about is this: If the police find him at a certain address on April 1 and make a return under the statute they have found him there and the man comes in and is registered, then he is entitled to vote, so far as we are concerned.

Q. And as far as you are concerned, also, if that information conveyed to you that man did not live there, it makes no difference whether it is true or not?—A. I didn't quite get your question. Repeat it.

Q. In other words, it makes no difference to your board whether the police information is true or not?—A. We never question police information. We can't question it. Under the statute we are obliged to take it.

Q. The information and testimony in this case shows that there have been a lot of men registered——

Mr. CALLAHAN. In what case?

Q. (Continuing.) Who did not live in the places where they are purported to have lived, and that being so, I want to ask if you, as a member of that board, have done anything to purge the list of the names of those men concerning whom evidence has already been given?

Mr. CALLAHAN. Now, wait.

Q. And conveyed in the public press that they did not live at those places?

Mr. CALLAHAN. Now, wait one minute. Those are simply allegations. There is no proof.

A. I understand that we have no evidence before our board of any such facts as you now state. If we had any evidence before our board by a petition under the statute that any person who is registered and listed as at a certain address did not really live there and wasn't entitled to vote and we were satisfied that there was some evidence—I do not care how slight it was—the slightest sort of evidence produced before our board by a petition we would send out summonses and give you or anybody else who is interested in purging that list opportunity to come in and present evidence, and if were satisfied that man is improperly on the list we would strike his name off. Otherwise we wouldn't.

Q. In other words, Mr. Wasserman, your attitude is this: No matter how many men are complained of, no matter how many men are complained of for illegal registration to your board, your board that is a highly paid board, will sit there and do nothing unless somebody brings in some evidence to you?—A. That is not so, at all.

Q. What else is there, other than what you said?—A. Except in your imagination.

Q. I am asking you, can you give me a single thing you will do. Will you name a single thing you will do to purge the list?—A. Yes, sir.

Q. Of illegal registration. Wait a minute. You are a very voluble witness and you have long answers. Let me ask you a question before you interrupt me. Will you please tell me anything that your board will do on a complaint from me or any other citizen complaining that there is a lot of illegal registration in Boston, other than to go and find out the names are on the list and also on the police list?—A. Of course, Mr. O'Connell, I told you that before. Any citizen of Boston that testifies, or is satisfied, there are certain names on the list illegally, or names of certain persons on the list who are not entitled to vote, we will hear you, or hear anybody, at any time, and if there is the slightest evidence of any of the facts that you allege, we will send out summonses to bring those men before our board, and if the evidence sustains your contention, we will strike the names right off the list. We do not want illegally-registered voters on our list if we can help it, and we call upon any citizen, public spirited citizen in the city of Boston to help our board purge that list if they want to do it. We are there to help them.

Q. Have you taken any action——

Mr. CALLAHAN. Have you given any evidence?

Q. (Continuing.) On that list that was submitted to you to purge the list from those names?—A. Any action?

Q. Other than go and look at the police list to find out if the name was there?—Have you done anything, is my question?—A. Yes, sir; we have.

Q. What is it?—A. We had a meeting of the board to await your coming, and we kept the board there in readiness to meet any time you came down with any prima facie evidence to sustain any allegations you or anybody else should make.

Q. Since the time that list was submitted to you in the last week of October, 1918, has your board done anything except to wait?—A. Wait for what? For you to prove your case?

Q. Have you done anything, other than to wait?—A. Of course, we did.

Q. What is it?—A. Notified you we were ready.

Q. Then you waited?—A. After you did not show up, because, as you say, you had short notice—but as we think you had ample notice—we notified you again, and we were satisfied from what you said and from your conduct in not showing up, that the petition was not filed in good faith, that they were mere wild allegations and we do not chase allegations all over the city.

Q. Answer my question. Have you done anything, yes or no.—A. Of course, we have done things.

Q. What are they, except waiting? What have you done, except to wait?—A. I think I have answered that question fully enough.

Q. Have you done anything, other than what you have stated, and waited?—A. You have heard what I stated we did, haven't you?

Q. Have you done anything outside of giving me 15 minutes' notice to appear before you; your board?

Notary MANCOVITZ. That question has been given back and forth.

Q. Have you?

Mr. CALLAHAN. He has answered that.

A. I suppose, Mr. O'Connell, if a man came along and said every citizen in the city of Boston was illegally registered, you would want us to do something more beside calling a meeting of the board to listen to wild allegations?

Q. How much salary do you get?—A. You know my salary.

Q. It is \$3,500?—A. Yes.

Notary MANCOVITZ. It is immaterial.

Q. Have you, as a servant of the city of Boston, entrusted with the safeguarding of election machinery, have you asked for any information from any of the hearings that have taken place in reference to the conduct of elections in that 10th district?—A. My dear sir, we are ready——

Q. Answer yes or no.—A. —to listen to information. We are ready at any time to have petitions filed. We are ready at any time on proper evidence, to strike off names of those illegally registered. Until some evidence is produced, those on the list are properly registered.

Q. Have you gone to look for any evidence to find out whether the charges made were true or not?—A. There were no charges made.

Q. The charge was made those men were illegally on the list?—A. Made by who?

Q. Mr. Tague.—A. In what form?

Q. In the form prescribed under the statute and filed with your board.—A. Why didn't you come along and produce evidence?

Q. I am asking you if your board has tried to find out anything other than ask for——A. Our board is not obliged to find out anything beyond the evidence of the police return.

Mr. O'CONNELL. That is all.

The WITNESS. We are ready to listen to evidence at any time.

Mr. O'CONNELL. That is all.

Redirect examination by Mr. CALLAHAN:

Q. No evidence was produced by any of Mr. Tague's attorneys?—A. Not the slightest, outside of allegations.

Q. Or Mr. Tague himself?—A. Or Mr. Tague himself.

Notary MANCOVITZ. Allegations are not proof.

(Recess until 2.30 p. m.)

JACOB WASSERMAN.

AFTERNOON SESSION.

JOSEPH L. KANE, sworn.

By Mr. BROGNA :

Q. Your full name, please?—A. Jospheh L. Kane.

Q. What is your occupation, Mr. Kane?—A. Secretary to Congressman Tague.

Q. How long have you been his secretary?—A. Four years.

Q. You are a single man?—A. Yes.

Q. And you vote from 103 Meridian Street, East Boston?—A. Yes, sir.

Q. That is in ward 2?—A. Yes, sir.

Q. Precinct what?—A. Precinct 4.

Q. Are you testifying from memory, Mr. Kane, or testifying from notes which you have before you?—A. No notes, just a registration card and your—

Q. Summons. The address on the summons, 103 Meridian Street, was on the summons?—A. Very likely.

Mr. O'CONNELL. I might observe if you wouldn't lead the witness and asked him where he lived he would have answered you. All he is doing is agreeing with you.

Q. What is the house at 103 Meridian Street, Mr. Kane?—A. It is a brick house, a store downstairs and three floors up above. The store is occupied for a candy store.

Q. And the three floors up above are used for what?—A. Rooms. Mr. McGrath—

Q. Lodgers or a tenement house?—A. Lodgers and tenement both.

Q. They are not—all three floors are not all used by Mr. McGrath, are they?—A. No; he just uses one floor.

Q. And which floor is that?—A. Well, it is the second from the street; I suppose you would call it the first floor in the tenement.

Q. First flight?—A. Yes.

Q. Above the ground floor?—A. Yes.

Q. Who occupies the floor directly above Mr. McGrath's?—A. Well, the floor above that, there is a bathroom and three other rooms.

Q. Occupied by whom?—A. Well, it used to be—at the present time it is occupied, one room is occupied by myself, and one occupied by Mr. McGrath, sr., and the other is a storeroom, where Mr. McGrath keeps some of his goods.

Q. So that there are on that floor three rooms and a bathroom; and the floor above that?—A. The floor above that is sort of a garret like.

Q. Well, this house—A. That is as far as I am familiar with the floor above. Of course, I do not go up.

Q. There is no family living on the floor above?—A. No. What is upstairs, above the floor I am on, I wouldn't be familiar with, because I do not go up the stairs.

Q. Now, the first floor above the ground floor and the middle floor are tenanted by whom?—A. The first by Mr. McGrath.

Q. Has he his family there?—A. Oh, yes; his father and mother.

Q. What is Mr. McGrath, sr.—what does his family consist of?—A. There is a Frederick A. McGrath, and Frederick W. McGrath. One is the father and one is the son.

Q. Frederick W. is the father?—A. Frederick W. is the father.

Q. What does the family consist of?—A. Just the father.

Q. Just the father and son?—A. Just the father and mother and the son Frederick, who is the undertaker.

Q. Is there anybody else living in that tenement of Mr. McGrath's besides the persons mentioned by you?—A. No. Occasionally there is a chap named Johnnie Kelly that works around for Mr. McGrath. He is in and around there a lot. I wouldn't be surprised but what he might sleep there occasionally.

Q. Now, how long have you voted from 103 Meridian Street?—A. I voted—I started to vote from 103 Meridian Street in 1916.

Q. Prior to that time, where did you vote from?—A. Let me see, in—

Mr. O'CONNELL. Of course, I object.

The WITNESS. 1912.

Mr. O'CONNELL. And ask my objection be noted. It is not material.

The WITNESS. It is all right. I will show you, because I will show you where I always voted. It leads up to it. 1909 I voted at—1912 I voted, or '11, I voted in 1912 at 46 Chelsea Street

Q. And in 1913 where did you vote?—A. 1913 I voted from——

Mr. O'CONNELL. I do not see any need of going back five or six years to find out where this man voted. I do not think it is material.

Notary MANCOVITZ. Objection noted.

Mr. O'CONNELL. I ask my objection be noted.

Notary MANCOVITZ. Note his objection.

Mr. O'CONNELL. To any inquiry——

The WITNESS. Well, Mr. O'Connell, it will just merely show I always lived——

Mr. BROGNA. I am showing that for you, to save you the trouble, Mr. O'Connell.

The WITNESS. Those are lodging houses that I refer to.

Q. After 1912. You said in 1912 you voted from 40 Chelsea Street. Where did you vote in 1913?—A. In 1913 I voted at 13 Meridian Street.

Q. At 13 Meridian Street. Is that a lodging house, too?—A. Yes. That is owned by Thomas——

Q. 1914?—A. 1914; from 111 Maverick Street; 1914. William P. Grady conducted it then.

Q. And in 1915 where did you vote from?—A. 1915 I voted from 111 Maverick Street

Mr. O'CONNELL. Again I object. I think I should object. I do not see any occasion for going into where Mr. Kane voted from——

Mr. BROGNA. We have got to 1916.

Mr. O'CONNELL (continuing). Any other years than the present year. The issue is a very narrow one, and I ask the examination be confined to the issue.

The WITNESS. Well, 1916 and '17 make it.

Q. You voted from 103?—A. During that time, in 1915, February of 1916, I moved to Mr. McGrath's house. I then went to Washington with Congressman Tague. I was there four years. Not having—anybody in the District of Columbia not having a right to vote, naturally a Government employee has a voting residence.

Q. I am not asking you about that. I simply asked you where you voted from for several years. Leave counsel take care of that. Now, Mr. Kane, what does your family consist of?—A. My family consists of myself.

Q. Have you a mother?—A. I have.

Q. Where is she living?—A. She lives at 3947 Washington Street.

Q. 3947 Washington Street?—A. She hasn't lived in East Boston for 12 years.

Q. Now, please answer my questions and we will get through much sooner. Who lives with her?—A. My sister and my brother-in-law.

Q. And your brother-in-law?—A. Yes.

Q. That is the sister you refer to, and her husband?—A. Yes; that is correct.

Q. And that is what kind of a house—one-family?—A. Three-family.

Q. Two-family?—A. Three-family.

Q. How many rooms in that tenement?—A. In that, let me see—there are two bedrooms, a bathroom, den, dining room, kitchen and parlor, sitting room.

Q. What is that—sir?—A. Yes.

Q. Which tenement does Mrs. Kane live in?—A. The first.

Q. And your sister and brother-in-law live in the same tenement?—A. My mother and sister live—my mother lives with my sister.

Q. Now, have you any brothers, Mr. Kane?—A. Yes; I have a brother who lives with me, brother George.

Q. Lives with you?—A. He and I—he has always claimed his home with me for 10 or 12 years since my mother moved from East Boston.

Q. How often, Mr. Kane, did you go to 103 Meridian Street in the past four years when you were in Washington as Congressman Tague's secretary?—A. During that time my sister and mother were at Sharon and Weymouth. During the summer very seldom I came home. In the summer I used to go a great deal to see them.

Q. How much of the time while you were in Boston have you spent at 3947 Washington Street?—A. Well, I suppose that I might spend Sunday there once in a while.

Q. Haven't you gone there to sleep on nights other than Sunday nights?—A. Very seldom.

Q. You have gone there nights other than Sunday nights?—A. Well, very seldom. That is, on a rare occasion I might.

Q. What would you call "very seldom"?—A. Oh, perhaps once in a month; something like that.

Q. You have belongings, personal effects, at 3947 Washington Street, haven't you?—A. I wouldn't say that. I wouldn't call them belongings. About all my belongings are——

Q. Well, have you or have you not?—A. Well, I suppose naturally might say—it is according to what you call "belongings," first. If you define "belongings," Mr. Brogna, perhaps I would——

Q. Personal property.—A. Personal property?

Q. Yes.—A. Well, I suppose I might say some personal property; stuff that was left there when my sister—before I left home.

Q. Haven't you got some of your wearing apparel at 3947 Washington Street, Mr. Kane?—A. Might have an old hat or old coat. Not my wearing apparel, by any means.

Q. You have an old hat and old coat?—A. My wardrobe isn't so extensive that I can distribute it.

Q. Your clothes other than what you have on your back are at 3947 Washington Street, aren't they?—A. Oh, no.

Q. They are at 103 Meridian Street?—A. Oh, yes; the most of them. Some of them are in Washington.

Q. Some are still in Washington? Haven't you given up your quarters in Washington?

Mr. O'CONNELL. Oh, he is going back there.

Q. Have you still quarters at Washington at the present time?—A. I have a steamer trunk filled with clothes down there.

Q. Where; in storage?—A. No; down with a friend.

Q. At a friend's house? And in the last four years a great—or much of your time has been spent in Washington, hasn't it?—A. Yes; a great deal of the time.

Q. And whatever time you have stayed in Boston over night, the major part of your time you slept at 3947 Washington Street?—A. No; I slept over in East Boston, because that is where our office is practically. I always made an office out of Mr. McGrath's store to meet Mr. Tague's constituents over there in that section of the city. He always suggested I do that.

Q. During the past few years, the Congressmen's office was for part of the time in the Kimball Building in Boston?—A. That is mostly for people in town.

Q. Isn't that where you spent most of your time as secretary while you were in Boston, at?—A. I would say the daytime.

Q. (Continuing.) 18 Tremont Street?—A. The daytime, but not nights.

Q. So you made your other headquarters as secretary in an undertaker's shop. Is that right?—A. Well, simply might say—wouldn't say that the headquarters was in the undertaker's shop, but——

Q. What was in there?—A. I had been there. I had chummed around with Fred McGrath probably 20 years.

Q. That is, you were very friendly with Fred McGrath?—A. Sure.

Q. Have you seen Frederick A. McGrath to-day?—A. No; I haven't seen him.

Q. Did you know that Fred McGrath was summonsed to appear here to-day?—A. Yes. Mr. McGrath—we talked it over.

Q. Have you talked it over with him?—A. Mr. McGrath was coming here to-day.

Q. Have you talked it over with him?—A. Only that he was to meet me here.

Q. When did you have that conversation with him?—A. I had a conversation with him, I think last night I talked with him.

Q. Last night?—A. He told me he had a funeral to-day of some man.

Q. Just a minute, please. And did he tell you that he had been summonsed?—A. Did he what?

Q. Did he tell you that he had been summonsed?—A. Oh, yes; said he was summonsed and was coming.

Mr. O'CONNELL. He sent a letter in, you know. I have a letter on the record there that he would appear just as soon as the funeral was over.

Q. Your brother who you say makes his home with you; what is his occupation?—A. He is in the Navy.

Q. How long has he been in the Navy?—A. Oh, he has been in the Navy I guess about pretty near two years now.

Q. And have his duties at the Navy taken him out of Boston permanently for any length of time?—A. I couldn't say that. He has been away more or

less. Other times he has been home. I do not see him very often since he went into the Navy.

Q. What branch of the Navy is he in?—A. Well, all I know he is in the Navy. I couldn't just tell you.

Mr. O'CONNELL. I do not like to be interrupting, Mr. Brogna.

Mr. BROGNA. Doesn't interrupt me at all.

Mr. O'CONNELL. It doesn't seem to be at all material what branch of the Navy Mr. Kane's brother is in.

Mr. BROGNA. It may not to you.

Mr. O'CONNELL. Do you really think it is to you?

Mr. BROGNA. I do not know for sure.

Mr. O'CONNELL. Of course, if you say it is material, I won't urge my objection.

Q. He is younger than you are?—A. Yes.

Q. You have been the main support of your mother for some time, Mr. Kane?—A. No; my mother is her own support.

Q. Her own support?—A. To a certain extent. She has a little property. It doesn't amount to a great deal.

Q. You haven't contributed to her support?—A. Oh, yes; I have helped her; of course, I have.

Q. And have you not a home there at 3947 Washington Street?—A. Have I what?

Q. A room that you may use any time you go there or choose to go there?—

A. Well, I suppose any night I could sleep some place. I suppose I could sleep in the dining room or some place like that if I went there. It isn't big enough for over three people to sleep in.

Q. So that the times you have slept at 3947 Washington Street you did not have a chamber?—A. No.

Q. (Continuing.) That you customarily use?—A. Well, I very seldom slept there. When I slept there I slept on a couch.

Q. And you have gone home to these various lodging houses at 46 Chelsea Street, 13 Meridian Street, 111 Maverick Street, and now 103 Meridian Street, for the purpose of being able to vote from East Boston?

Mr. O'CONNELL. He did not say that.

A. I have lived—I have absolutely lived in them 365 days in the year.

Q. Yes. That is not what I asked you. Have you gone to these lodging houses for the purpose of being able to vote from East Boston?—A. No; it is my home.

Q. So that you consider your home any lodging house where you can get accommodations around April 1?

Mr. O'CONNELL. Oh, I do not think——

A. Oh, that is a very unfair question. I have lived in these places.

Q. I am not asking you, Mr. Kane, to pass upon the fairness of the question. I am asking you to answer it, if you care to. It is up to me to frame the question.

Mr. O'CONNELL. It seems to me the witness has got a right to comment on an unfair question.

Mr. BROGNA. He has not right to comment on the fairness of the question. He can answer or refuse to answer.

Mr. O'CONNELL. If the question is unfair he ought to say it.

Mr. BROGNA. I do not think any witness has any such right. Mr. Kane knows his right. He can answer it or not.

The WITNESS. What was the question? Please read it over.

Q. Whether you have gone to these various lodging houses around April 1 for the purpose of voting in East Boston?—A. No, sir. I was born in East Boston. My mother before me was born there; always lived there until recently.

Q. Do you consider that because you were born in East Boston, no matter where you may live at any other time that you ought to have a right to vote from East Boston, by simply giving your name in a lodging house?

Mr. O'CONNELL. I think you should incorporate into that question that the man has lived there.

The WITNESS. Do you know a place where a single man can live unless he lives in a lodging house?

Q. Do I know a place where a single man can live unless he lives in a lodging house?—A. Or a hotel?

Q. Yes. He can board with families.—A. But very few people board in Boston.

Q. And various other places.

Notary MANCOVITZ. A lodging house is no disgrace.

The WITNESS. I registered in the draft from that house.

Mr. BROGNA. I noticed the card.

Mr. O'CONNELL. He did not want to inquire about it. You leave that to me. I will bring that in:

Mr. BROGNA. It is immaterial. That is all.

Cross-examination by Mr. O'CONNELL:

Q. Just one or two questions. You have your draft card there?—A. Yes, sir.

Q. What does that draft card say?—A. "Joseph Lawrence Kane, 103 Meridian Street, East Boston, Mass., 12th day of September, 1918. Thomas E. Carr, registrar."

Q. That is the place where you have been living and where you voted from?—A. Yes, sir.

Q. 103 Meridian Street. Now, Mr. Kane, during the last four years Congress has been in pretty near continuous session, has it not?—A. Yes, sir.

Q. Extra sessions were called and Congress sat late so that most of your time has been spent in Washington?—A. Yes, sir.

Mr. O'CONNELL. That is all.

Mr. BROGNA. That is all. I understand my brother agrees this [indicating] may be introduced as an exhibit and marked. It is the police list of ward 5, taken April 1, 1918.

(The book, police list of ward 5, April 1, 1918, is admitted in evidence and marked "Contestee's Exhibit 18.")

Mr. BROGNA. Just mark these [indicating] as one exhibit, 20 summonses issued by David Mancovitz, Esq., sitting as notary, to witnesses for John F. Fitzgerald.

Mr. O'CONNELL. Those I understand are summonses of all witnesses who have shown up and two who have not shown up?

Mr. CALLAHAN. Does not include all. Most of them.

(Twenty summonses for witness for John F. Fitzgerald, admitted in evidence and marked "Contestee's Exhibit 19.")

Mr. CALLAHAN. That will be all, Mr. Notary, unless you have some desire to call a later meeting.

Notary MANCOVITZ. I am at your disposal, gentlemen.

Mr. O'CONNELL. Does this end the Fitzgerald case?

Mr. CALLAHAN. Yes.

Mr. O'CONNELL. I would like to have that noted on the record.

(Adjourned to 10 a. m. Tuesday, April 22, 1919.)

INDEX.

	Page.
Notice of contest	3-5
Service of notice of contest	5
Answer to notice of contest	5-8
Service of answer to notice of contest	8
affidavit of Dora H. Barnes	135, 165, 177, 258, 350
affidavit of Gertrude S. Cole	69, 91, 207, 270, 316, 334, 361, 369, 404
affidavit of Nancy H. Harris	50, 144, 157, 211, 239, 288, 307, 321, 384, 431
Appearances for contestant:	
Goodwin, Frank A.	8, 404, 425
Harrington, Arthur	8, 404, 425, 432, 493, 548, 585, 621, 623, 632, 641
O'Connell, Joseph F.	8, 37, 288, 404, 425, 432, 493, 548, 585, 621, 623, 632, 641
Appearances for contestee:	
Broгна, Vincent	8, 266, 404, 425
Callahan, Timothy F.	8, 37, 288, 404, 425, 432, 493, 548, 585, 621, 623, 632, 641
Feeney, John P.	8, 37, 288, 404, 425, 432, 493, 548, 585, 621, 623, 632, 641
Appointment of Gertrude S. Cole, Nancy H. Harris, and Dora H. Barnes as official court stenographers	8
Article in Boston Post, September 29, 1906	574-575
Calling list of witnesses	295-296
Copy and statement of finding of ballot-law commission	173
Copy of Abraham C. Berman's notatorial commission	8
Copy of return of election commissioners	109
Examination of ballots	185-207, 258-264
Examination of returns on summonses	624-641
Exhibit 30.—Expenditures, disbursements, and liabilities of ward 5, etc.	562-563
Exhibit 44.—Telegrams and letter of confirmation in re Samuel L. Grossman	367-368
Letter from Martin M. Lomasney to Thomas F. Pedrick	301
Letters read into the record	111-115
List of absent witnesses	297-298
List of witnesses given United States marshal for service	299-300
Names of witnesses with return of marshal	175-176
Notary's certificate	50, 69, 70, 91, 135, 144, 157, 165, 177, 207, 211, 239, 258, 270, 288, 307, 317, 321, 334, 350, 361, 369, 384, 404, 431, 432, 621
Notice to take testimony and notary's subpoenas	164, 180, 585, 621, 622
Officers before whom depositions were taken:	
Berman, Abraham C.	8, 37, 288, 404, 424, 432, 493, 548, 585, 621, 623, 632, 641
Mancovitz, David	8, 37, 288, 404, 424, 432, 493, 548, 585, 621, 623, 632, 641
Testimony for contestant	8-431
Testimony for contestee	432-674
Witnesses for contestant:	
Alders, Mrs. Frances A.	139
Baker, Mrs. Mary Howard	149-150
Barry, Frank I.	91
Boynton, Herbert H.	99-110, 233-236
Bradford, Mrs. Bertha T.	148
Brown, Mrs. Nora	143
Burke, Henry A.	350-351
Burke, John J.	319-321
Burlen, Melancthon W.	258-270
Callahan, John Joseph	97-99
Campbell, Cyrus M.	338-340
Campbell, Jean	348
Carlezon, Mrs. Adeline J.	144-146
Carpinello, Angelo	236-239
Clemens, Nellie M.	140
Cochrane, Thomas H.	355-356
Cogan, Charles T.	355

Witnesses for contestant—Continued.

	Page.
Collier, Rose Susan	171-172
Comber, Patrick F	356-357
Connors, Daniel	351-352
Corkery, Timothy W	352
Crowley, Daniel J	170
Crowley, Mrs. Katherine	138
Cuneo, Mrs. John	207-208
Cunningham, Henry V	110-121
Daly, Patrick	275
De Rosey, Sylvester O	245-247
Desmond, Jeremiah A	428-430
Di Pesa, Alfred	276-278
Di Pesa, Joseph	287-288
Donovan, Mrs. Hannah J	139-140
Donovan, John L	321-322
Dowd, Francis J	286-287
Dowd, Mrs. Francis	146
Dower, Mrs. Julia	242-243
Dukelow, Peter	249-250
Dwyer, Edward O	256-258
Eaton, Charles M	86-87
Fallon, Lawrence J	358-359
Farnham, Allan H	76-80
Feeney, John D	271
Finigan, Frederick A	177-194, 196-197
Finkelstein, Abraham	208-209
Fitzgerald, Capt. Richard	73-74
Gallagher, William R	247
Galvin, Agnes	168-169
Garvey, Charles L	284-286
Gavin, Mrs. Rose	149
Gibbons, Frank J	247-249
Gibbons, John T	126-135
Giblin, Thomas J	328-333
Girvan, George	74
Goodwin, Frank A	365-367
Gordon, Mrs. Minnie	165-166
Glynn, Thomas H	38-50
Graham, John J	255
Gray, Edward R	123-124
Green, James I	322-328
Halpern, Abraham E	157-162
Harkins, Daniel J	336-338
Harkins, Dominic J	335-336
Harrington, Arthur	406-409
Harris, Charles H	317
Healey, William A	84-86
Hill, George W	343-348, 349-350
Hurley, Mrs. Agnes	135-136
Hurley, John	136
Kane, Patrick H	357-358
Keenan, Thomas Henry	243-245
Kelley, Daniel P	287
Kelley, Edward I	163-164
Kelly, Edward I	147
Kiley, Raymond Francis	150
Larkin, John Joseph	275
Lawton, Thomas	355
Lebosky, Hyman	152-157
Leonard, John J	146-147
Leveroni, Catherine C	270
Levison, Robert C	354-355
Locke, Louis	250-251
Lomasney, Nellie	140-141
Long, Henry F	342-343
Low, George J	281-282

Witnesses for contestant—Continued.

	Page.
Lucas, Thomas W	271-272
Lyons, Katherine	141
McCaffrey, Mrs. Margaret J	168
McCarthy, James Joseph	92-97
McCarthy, John J	309-311
McCarthy, Mrs. Margaret	241-242
McCarthy Thomas A	313-314
McDonald, Patrick A	272-273
McGinniss, Edward F	314-316
McHugh, Thomas	251-252
McKenna, Sarah	228-229
McKinnon, Margaret Anna	150-151, 209-210
Maddock, Joseph V	317-319
Mahoney, Dennis F	122-123
Mahoney, William E	404-405
Mancovitz, David	361-364
Manning, Mrs. Annie	170-171
Mooney, Mrs. George	137-138
Morgan, Mrs. Madone	166-167
Morse, Morris	338
Murphy, Dennis J	137
Murphy, Mrs. Mary	137
Murphy, Thomas J	304-307
Murphy, William J	341-342
Murray, William A	124-126, 212-215
Neylon, Mrs. Frank	148
Norton, John W	352-354
O'Brien, Edward	74-75
O'Brien, Edward J	215-218
O'Connor, Michael	162-163
O'Meara, Henry J	172-173
O'Neil, Dennis	359-361
Parker, Charles W	278-281
Peak, Herbert N	401-404
Pedick, Thomas F	301-304
Pierce, Arthur W	307-309
Piscopo, John B	274
Poggi, George W	270-271
Porter, Patrick H	210-211
Quigley, Thomas James, jr	82-84
Rae, Joseph F	275-276
Reynolds, Raymond I	282-283
Riley, Thomas	254-255
Riley, Thomas, jr	255
Rogers, Mrs. Elizabeth	151-152
Rogers, Mary E	123, 141-143
Runci, Augustus	87-91
Ryan, Mrs. Mary Frances	146
Scigliano, Alfred P	311-312
Scotti, Mrs. Concetta	229-233
Shea, Cornelius J	70-73, 75-76
Smith, Frank G	136
Stone, David	219-228
Sullivan, John A	334-335
Tague, Peter F	9-37, 51-69, 121, 370-401, 410-424
Taylor, William	425-428
Thornton, Mrs. Nora M	139
Tomlinson, Jonathan	80-82
Underhill, Walter H	121-122
Valenti, Mrs. Margaret	171
Wagner, Stephen G	283-284
Walsh, Thomas P	312-313
Wasserman, Jacob	197
Whaley, William C	340-341
Whitney, Mrs. Ella	252-254
Wilson, Mrs. Ellen	143-144

Witnesses for contestee:

	Page.
Boynton, Herbert H	654-657
Burlen, Melancthon W	585-617
Burrill, Charles L	652-653
Finigan, Frederick A	617-621
Goggin, Patrick F	641-643
Kane, Joseph L	670-674
Lomasney, Martin M	432-585
Manning, Timothy F	643
Pingree, Frederick Hale	648
Rothwell, Bernard J	653-654
Tague, Catherine T	650-652
Taylor, William	649-650
Turnbull, Martin J	644-647
Wasserman, Jacob	660-669

United States of America

Sixty-sixth Congress of the United States

Contested Election Case of

PETER F. TAGUE

versus

JOHN F. FITZGERALD

From the Tenth District of Massachusetts

CONTESTANT'S BRIEF

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15-16-32

UNITED STATES OF AMERICA.
IN THE HOUSE OF REPRESENTATIVES
SIXTY-SIXTH CONGRESS.

TENTH DISTRICT OF MASSACHUSETTS

Contested Election Case of
PETER F. TAGUE
vs.
JOHN F. FITZGERALD.

CONTESTANT'S BRIEF.

STATEMENT OF THE CASE.

This is a contest for the seat in the Sixty-sixth Congress of the United States from the Tenth District of Massachusetts. There was a primary contest for the Democratic nomination, held according to the laws of the Commonwealth of Massachusetts on September 24, 1918, at which the candidates were Peter F. Tague and John F. Fitzgerald. At that time, Peter F. Tague was the sitting member from the district and sought re-election. At that time and for twelve years prior thereto and since, the contestee, John F. Fitzgerald, did not live in the district, but lived in the Twelfth Massachusetts Congressional District. This district is composed of six wards in Boston, namely, Wards 1, 2, 3, 4, 5 and 6. Wards 1 and 2 are located in East Boston; Wards 3 and 4 are located in Charlestown, and Wards 5 and 6 in that part of Boston which has a congested population, and is composed in great part, of

the business section of the city, including the hotels and lodging houses, and also is the place where the latest arrivals to this country locate, principally due to the fact that the steamship company's wharves are in this district. This district, particularly Ward 5, is under political domination of one man, viz., Martin M. Lomasney, working through a political organization known as the Hendricks Club. As the result of wholesale colonization in the cheap hotels and lodging houses, Lomasney has on various occasions, been able to control the tenth congressional district. In the primaries in question, Peter F. Tague received 4,972 votes, while John F. Fitzgerald received 5,022 votes. In Wards 1, 2, 3, 4, 6, John F. Fitzgerald received 3,202 votes, and Peter F. Tague received 4,555. In Ward 5, Tague received 417 votes and Fitzgerald 1,820 votes. In the election following, Tague received 6,997 votes and Fitzgerald 7,227 votes. In Wards 1, 2, 3, 4, 6, Tague received 6,425 and Fitzgerald 4,657, while in Ward 5, Tague received 572 votes, and Fitzgerald received 2,507 votes, clearly indicating the boss ridden character of said Ward 5. The colonization and illegal registration practised through alleged residences in the aforesaid cheap hotels and questionable lodging houses, was composed of liquor dealers, bar tenders and city employees.

Primary

According to the unofficial returns of the result of the Primary, John F. Fitzgerald received 5,030 votes, and Peter F. Tague 4,939. A recount of the votes was asked for by the contestant, Peter F. Tague, in accordance with the laws of Massachusetts, and the recount was held before the Election Commissioners of the City of Boston, which Board began a recount on the 30th day of September, and finished on the first day of October, and as a result of said recount, announced that John F. Fitzgerald had a plurality of fifty votes. During the recount the said Board refused to count many ballots for the contestant, Peter F. Tague, which should have been counted for him, and also counted for John F. Fitzgerald,

many ballots which should not have been counted, or should have been counted in favor of the contestant. During the recount, the contestant was treated very unfairly by said Board, as was evidenced by the action of one of the Commissioners, who stated, when a protest was made, that he was not acting in accordance with law, "I am wrong; I am glad I am wrong, and I'm going to stay wrong." The contestant was annoyed, delayed and handicapped in every possible way by the said Election Board during this recount, to deprive him of his legal rights.

Although the contestant was convinced that he had honestly and fairly received a plurality of votes, he could not get his name on the official ballots on election day, because of the change in the laws of Massachusetts (Sec Chap. 293, Sec. 33, Acts of 1918), by which no independent candidate could be placed on the ballot after Monday, September 20, which was four days prior to the Primary itself. As soon as the Election Commissioners certified to the Secretary of the Commonwealth of Massachusetts the results of the aforesaid recount, your contestant immediately appealed to the Ballot Law Commission of the Commonwealth of Massachusetts, which commission had jurisdiction in questions of this kind. At the hearing before this Commission, which was prolonged up to five days before the election, it was established that the names of very many soldiers and sailors had been fraudulently voted on; that names of men who were denied the right to vote, were voted on by others than the men themselves, and that intimidation had prevailed in Ward 5 in Boston, which was controlled by Martin M. Lomasney; that many hundreds of voters were allowed to participate in the Primary, who did not live in the aforesaid Ward 5, and who were illegally registered there; that the contestant endeavored to show said Commission that several hundred names were voted on by men who did not live in said Congressional District, particularly in Ward 5, but the said Commission refused to hear this kind of evidence.

The Ballot Law Commission was furnished the names of twenty witnesses to summon, whose names had been illegally voted on, and the said Board neglected and refused to summon these men. The counsel for John F. Fitzgerald admitted that the names of thirty-seven men had been fraudulently voted on. The contestant says that this finding of fraud admitted by both the contestee and the Commission, vitiated the Primary, and the Ballot Law Commission should have certified for the Democratic nomination, the name of your contestant, instead of John F. Fitzgerald.

At the said Primary, there was much intimidation and fraud and illegal voting. At the aforesaid hearing, it was shown conclusively that there was much intimidation in Ward 5, which was in control of Martin M. Lomasney, who was the chief supporter of John F. Fitzgerald, and whose ward was overwhelmingly carried by John F. Fitzgerald, by boss methods. Illegal voting on the names of soldiers and sailors absent in the service of their country by repeaters, was proved in Wards 5 and 6. In the former ward, the name of the son of the President of the Hendricks Club and the son of the Secretary of the same club were voted on although they were absent from the country in the service, and in spite of the fact that their fathers were present at the polling booth all day, and when the aforesaid President and Secretary of the Hendricks Club were summoned before the Ballot Law Commission, they failed to appear although both were employees working for the City of Boston. As the result of some understanding existing between the Ballot Law Commission and the State printer, which was not disclosed to your contestant, the ballots for the State election were printed and under way before the decision of the Ballot Law Commission was announced to your contestant, and there being only four court days left, and it being the practice of the Massachusetts Courts not to interfere with the election machinery, after printing of the ballots had been started, your contestant was deprived of the privilege of appealing to the courts, and was obliged to have

stickers or pasters with his name printed thereon, distributed throughout the district. On both primary day and election day, hundreds of illegally registered voters voted in Ward 5. In the primary the total vote in Wards 1, 2, 3 4, where no illegal voting was proved, was Tague 3,814, Fitzgerald 2,337, while in Wards 5 and 6, where the repeaters operated and where illegally registered votes were colonized, the vote for Tague 1,158, Fitzgerald 2,685.

Election

At the election on November 5, the only names on the ballot for Congress were the names of John F. Fitzgerald, Democrat, and Hammond T. Fletcher, as Republican. The returns of the Precinct officers of the polls as announced were as follows: John F. Fitzgerald 7,217; Hammond T. Fletcher 1,069; Peter F. Tague 6,896. In other words 6,896 pasters and stickers had been attached to the ballot and properly marked for Peter F. Tague and it was unofficially announced that John F. Fitzgerald had a majority of 321 votes, although both Democratic and Republican inspectors and special inspectors appointed by the Governor in Ward 5, were controlled in their appointments by Martin M. Lomasney.

Several hundred ballots on which stickers marked "Peter F. Tague for Congress, Tenth Congressional District" was also placed on said ballots, but were not counted by the Election officials; together with many ballots on which the name of "Peter F. Tague for Congress" was written in pencil or ink.

In accordance with the laws of Massachusetts, your contestant asked for a recount of the votes cast in said District, before the Election Commissioners of the City of Boston. The Election Commission is composed of four men, of whom two were new members, recently appointed by Mayor Peters; one member an active supporter of Fitzgerald, wagering money on his election, and the fourth member an appointee

of John F. Fitzgerald when he was Mayor. The election of Mayor Peters was brought about by the support of said Lomasney and the Hendricks Club mentioned hereafter. After several days of hearing at which the said Election Board shewed their unfairness by the attitude of one of the Commissioners who said, "I will not grant a recount in the precinct, where an apparent error was discovered," and "I will not sign any certificate if the result is changed."

During said recount, it was shown that the aforesaid Commissioner had access to the vault in which the ballots were kept, unknown to anybody and contrary to the rules and the oft repeated assurances that nobody could go into the vault except a commissioner of the Democratic party accompanied by a commissioner of the Republican party. As a result of said recount it was announced that John F. Fitzgerald had 7227 votes; Hammond T. Fletcher 1069 votes; and Peter F. Tague 6997 votes, leaving the majority in favor of said John F. Fitzgerald of 230 votes showing a net gain of 91 in favor of the contestee. Your contestant protested because of the failure of the said Board, to count several hundred votes which should have been counted for him. The Republican candidate, Hammond T. Fletcher, was a member of the Hendricks Club (the Democratic organization of Ward 5) and friendly to Martin M. Lomasney, and, of course, was a candidate to serve the purposes of said Lomasney, who admitted that he paid said Fletcher's campaign expenses.

Although the challenges were made in compliance with the election laws of Massachusetts, they were counted for John F. Fitzgerald and your contestant was not allowed to bring proof that these challenged voters had voted for Fitzgerald. The contestant and his supporters would have challenged, if they had not been prevented by intimidation, hundreds of similar votes for illegality. The Election Commission refused to even consider, although the law specifically provides that they shall decide all questions arising in regard to the same, which of course included question of this kind.

Your contestant says that hundreds of votes properly marked for him, were invalidated by the use of the "double-cross," clearly showing fraudulent intent to deprive him of said votes; that many votes were cast for him in writing, in which the spelling was phonetically correct, but were not counted for him by the Commission, although the intent of the voter is clearly shown. Your contestant says if said Election Board had counted these hundreds of votes, which are available in the exhibits, and which had been marked and which should have been counted for your contestant, that your contestant would have a majority of over 300 votes; that said votes should have been counted for your contestant and are now in the possession of the Election Board of the City of Boston, marked "exhibits." The return of the votes of absentee voters to the Secretary of State show that 14 votes were cast for John F. Fitzgerald, and 6 for Peter F. Tague, giving an additional 8 votes to the majority of John F. Fitzgerald, and the certificate from the Governor of Massachusetts was issued to John F. Fitzgerald.

Notice of Contest and Testimony

Your contestant duly served notice on the contestee that he intended to contest his seat, setting forth in detail his reasons for said contest and also filed the same with the Clerk of the House of Representatives. The testimony was duly taken before Notaries in Boston, by both sides, and both contestant and contestee were represented by counsel. A clear statement of this whole situation was made at that time by the contestant under oath and is a part of the records and is respectfully referred to at this time as a part of the statement of this case. (See Records). The contestant summoned several hundred illegal voters who registered in Ward 5 of Boston, which ward was controlled by Martin M. Lomasney, and all summonses were duly served by a deputy of the United States Marshal, but the witnesses so summoned refused

to appear and it was necessary to prove by other evidence, the illegal registration of these men who voted at the Democratic primary, and also at the State Election (See testimony of Peter F. Tague), wherein there is set forth in detail, the places of residence of these men who voted illegally and whose votes should not be counted. Many of these voters who were so summoned to appear, came into court during the time of taking of testimony of the contestee, but did not testify, thereby flaunting their defiance of the authority of Congress. Much contempt was shown for the proceeding by the contestee and his attorneys and representatives and the witnesses who were friendly to the contestee, during the taking of testimony, which amounted to a public scandal in Boston.

At this hearing, evidence was produced to show that the contestee had committed fraud on the voters of the district, by having friends and representatives stand at the polls and fraudulently distribute what purported to be pasters, without any gum and containing the name of your contestant only, and which were handed to those who wished to vote for your contestant, to place on the ballot, and which votes were lost on account of the handling of ballots, because after the moisture had dried, the pseudo sticker fell off and was lost. (See testimony of Wm. J. Murray, Dennis F. O'Neil and Dennis Mahoney, also Exhibits of fraudulent stickers.) Conclusive evidence was also produced that there had been illegal practice in the manner in which voters were alleged to have been assisted by the political supporters of the contestee and Martin M. Lomasney, which so-called assistance was a form of intimidation; (see testimony of John Gibbons;) that there was much coercion during the election, particularly in Ward 5 where men who were watchers and friends of your contestant were assaulted and driven from the Ward, so that they were unable to challenge illegal voters as provided by the Laws of the Commonwealth of Massachusetts. (See testimony of Thomas J. Glynn, James J. McCarthy, Halpern and Gibbons.) The whole system of illegal registration can best be illustrated by the evi-

dence of Abraham Finklestein who said in substance that "they just put you in anywheres, and you don't have to go there at all and your vote is all right at election."

The contestant attempted to offer instances of illegal registration, by requiring the keepers of cheap lodging houses to bring in their records, but out of fifteen instances, only one of them brought in a register, each claiming that he had destroyed his registers or had burned them. (See testimony of Piscopo, John McCarthy, Rea, McDonald, Gordon.) Testimony was also offered that money had been used contrary to law and illegally in Ward 5, on behalf of the contestee. (See testimony of Thomas J. Giblin, James I. Green.)

Failure of Defence.

The contestee did not deny any of the allegations of the fraudulent use of false or pseudo stickers, and did not deny the use of money illegally and criminally used and did not take the stand to deny the statement that he had offered to give up a two year salary to the contestant if the contestant would withdraw from the contest, although present in the hearing room on two occasions and after having given notice that he would come in and testify.

The defense of the contestee was mainly the irrelevant testimony offered by Martin M. Lomasney, boss in Ward 5 of Boston, who outraged public decency in the manner in which he appeared in the United States court room, in a gray sweater on the stand, and acting in a most unbecoming, disrespectful and defiant manner, refusing to answer questions, except as he pleased, and abusing everybody, including Hon. James R. Mann, Former Speaker Hon. Joseph G. Cannon, the counsel for the contestant and everyone whom he cared to characterize in his testimony, for his own purposes and finally refusing to answer any questions if he did not like to.

In a few words this contest resolves itself into the charge (a) that the contestant was the legal choice of the Primary,

Sept. 24, 1918, but was deprived of the nomination through fraud by illegal registration of votes, flagrant refusal by Election Commission and Ballot Law Commission to comply with the law in determining the questions arising from such fraud; and of voting on the names of absent sailors and soldiers, and (b) that although obliged to run on pasters through the fraud of the Ballot Law Commission in withholding their decision, the contestant received the majority of the votes cast at the election on Nov. 5, 1918, but the election officials did not credit him with several hundred votes that were cast for him, and that illegal practises were indulged in throughout Ward 5 in Boston consisting of fraudulent registration and voting for contestee, coercion, intimidation, bribery, and other irregularities.

ARGUMENT.

In the long political history of New England, this case stands out as one of the most glaring instances of political fraud, perpetrated against the will of the majority of the people, that has ever been known, and the methods in which the election of the contestee was obtained, became so offensive to the voters in the district, that a political phenomena took place when your contestant with only five days left in which to make a campaign for Congress, was able to have stickers or pasters printed and distributed among the people, in a cosmopolitan district, where many languages are spoken and where the voters complied with a very intricate election law, by placing the aforesaid stickers in the right place, on a ballot over a yard square, to the number of 7,500 and some odd, being approximately 300 more than was cast for the regular Democratic nominee, whose name was printed on the Ballot, in an almost solid Democratic district, wherein a Republican member had not been elected for fifty years.

The contestant divides his case into four parts. He claims

1st: That he won the primary nomination, which was denied to him, on account of the misconduct of the election officials connected with the City of Boston, in the manner in which they conducted the primary recount, and the misconduct and negligence and delay, occasioned by the Ballot Law Commission of the State of Massachusetts, who refused to produce witnesses, who could give evidence concerning false registration and voting, and who delayed their findings until five days before election day, when it was too late for your contestant to appeal to the courts for redress.

2nd: That on election day, he received more votes than the contestee, but said votes were not counted by the Election Commissioners of the City of Boston, although said votes clearly indicate the intention of the voter to vote for your contestant, and which should have been counted for your contestant.

3rd: That fraud and intimidation was perpetrated upon the voters in the distribution of the pseudo pasters, whereby many voters were deprived of their right to properly register their choice for congressman; in the several assaults committed in Ward 5 upon your contestant's watchers, who were at the polls with the intention of challenging the illegal voters; in the so-called "assistance" of voters, such as was conducted by one McNulty in Ward 5, Precinct 8, which was in reality an intimidation of the voter, in order to violate the secrecy of the Massachusetts Secret Ballot, and compel the voter to show for whom he had voted, (see testimony of John Gibbons); in refusing to allow voters legally on the list, to vote; and the illegal use of money to influence the voters, which illegal use has never been denied by the contestee or any of his witnesses.

4th: On account of the wholesale illegal registration by the friends and supporters of the contestee, John F. Fitzgerald, in all parts of the district, particularly in Ward 5 and specifically in Precincts 4, 8, and 9, which illegal registration amounts, according to the proof before the Notaries to at least 400 votes. Such illegal registration is shown in the testimony of Abraham Finklestein who testified that "they just put you in anywhere; you don't have to go near the place and you are all right to vote on election day," and further by the testimony of one Hill proprietor of the Derby House, whose testimony shows that the names of every lodger was carried on his lists from year to year, whether present or not, and handed to the police, and thus retained on the voting list to be voted on by somebody on Election Day, whether the voter has been a legal resident of the ward or not. It is further shown in the testimony of practically all the other witnesses summoned,—married men for the most part, living with their wives and families in cities and towns not in the district; their children attending schools in those districts; all their household effects at these suburban homes, and their wives and children never even seeing the places from which they had registered and voted; further

by the evidence that a great many bar tenders and liquor dealers voted in said Ward 5; that their sole purpose in registering and voting in Ward 5, where they and their families did not live, was to protect their interests in their liquor licenses and influence the vote upon the license question in the City of Boston.

Other classes of illegal registrants was that of Frank Gibbons, who registered from his dog kennels although he kept a \$900 flat for a home for his bull dogs in the best residential section of the City of Boston,—the Back Bay, which in fact is his real home; the case of a member of the Hendricks Club—Sullivan—who registered and voted from the City Morgue when his home and wife and family were in another part of the city; the clerk in the Royal House who lived in another ward and who left his clothes at his home as his landlady testified, for fear they might be stolen in the Royal House, from which he had registered; and voted (see testimony Mrs. Galvin); and the outrageous numbers of registered voters from such places as the lodging house at No. 19 Causeway Street, where 32 men registered and voted from a single room; the Hotel Lucerne and the Lincoln House, which are only hotels for the sale of liquor; from the Revere House, declared a nuisance by State Supreme Court, because found to be a resort used for immoral purposes; from the Derby House and the Royal House and the various other questionable hotels and lodging houses in Ward 5.

Your contestant wishes to emphasize the fact that he was the choice by actual ballot of the majority of the voters of the district, which was clearly manifested by the 1,307 contested ballots which are exhibits in this case. The intention of the voter is perfectly clear in the case of the ballots which were cast with the stickers attached, and which were not counted for him by the Election Commissioners of the City of Boston. We have only to refer to the case of Ray vs. Ashland, 221 Mass. 223, to see that the law of Massachusetts in

regard to the pasters or stickers is merely directory and not mandatory, and in that case, where the registrars or voters refused to count the sticker ballots because of non-compliance with technicalities of the Election Law, the Supreme Court said that the voter in such cases, had a right to manifest his intention in any way he saw fit, and any attempt by the Legislature to dictate to him the precise means by which he might express such intention, could only be directory, as otherwise it would be an unconstitutional provision.

Your contestant also contends that the written ballots clearly express the intention of the voters to vote for him, although the name of your contestant was wrongly spelled. It is perfectly clear law that where there are no other candidates who might be taken as the candidate for whom the voter intended to vote,—that any manifestation in writing of the voter's intention is a perfectly good vote and should be counted for the person for whom the voter intended to vote (*Shepard vs. Sears, Russell, Mass., Election Cases, House, 1890*). The written names which were phonetically written but not written correctly, are clearly votes for your contestant, and should have been counted for him by the Election Commission.

That fraud was perpetrated on the voters, there can be no doubt after even a casual examination of the evidence. **The distribution by the friends and workers of the contestee, John F. Fitzgerald, of the stickers without the gum, was the most outrageous example of fraud ever perpetrated in our district or state.** The percentage of blanks for Congress in this contest is about $7\frac{1}{2}$ per cent., whereas the percentage of blanks for the other offices, will not average $2\frac{1}{2}$ per cent., which clearly proves the extensive use of the deceptive stickers.

The absolute proof of the distribution of these pseudo stickers was in Wards 1 and 2 in the East Boston district, and one precinct of Ward 6, but that it was common in the whole district and that the voters were deceived and defrauded thereby, is apparent from the above percentages. The burden on

your contestant to place his name before the voters of this district by means of stickers or pasters was surely enormous and the outrageous fraud practiced on the voters by the contestee, John F. Fitzgerald, and his friends, in distributing spurious stickers is surely a just cause for an adverse report by your committee.

Giving Mr. Tague a proportional credit in Wards 1 and 2, of the percentage of votes that were lost by means of these pseudo stickers, would be but justice to the voters of the district, who intended to vote for the contestant, and justice to him also, and in accordance with the traditions of the House of Representatives, which never seats any candidate whose election was tainted with such palpable fraud as this.

What particularly should interest your Committee and the House of Representatives, is the fact that while thousands of voters from the District were serving their country in France and on the high seas, making the world safe for Democracy, many of their names were voted upon by repeaters in the interests of John F. Fitzgerald, as disclosed by uncontradicted evidence in this case wherein it is shown absolutely that thirty-five such names were voted upon. (See letters from Navy and War Departments to Mr. Tague.) Since the taking of that testimony, we have been able to discover many additional names of soldiers and sailors, which were voted upon and had the time and means been at our command, we would doubtlessly have been able to discover many more. **The whole primary, wherein Mr. Fitzgerald was returned as having been nominated by the Democratic party by 50 votes, was saturated with this and other kinds of fraud.**

The testimony of Assistant Secretary of State Boynton, that he sent, some time during the summer of 1918, to the Election Commissioners, many thousand names of soldiers and sailors who were in the Service and who might possibly have a right to vote under the absentee soldiers and sailors voting law, is the first step in our proof of a conspiracy to vote on names of absent soldiers and sailors. He testified

that later Commissioner Murphy of the Boston Election Commission called him up and asked for a further perusal of that list for his own personal use and that when Mr. Boynton refused, he (Murphy) became quite abusive. The testimony of Jeremiah Desmond that he picked up on the floor of the Election Commission, an empty envelope addressed to Martin M. Lomasney from Melancthon W. Burlen, Chairman of the Election Commission of the City of Boston in his (Burlen's) handwriting, such an envelope as would contain lists of voters, and the subsequent fact that the soldiers' and sailors' names were voted upon and the testimony of Augustus Runci, the arrested and convicted repeater who voted in Ward 6 on Primary Day, that "all the fellows were doing it (repeating) and he thought that they would consider him a quitter if he didn't do it," is proof connecting the supporters of John F. Fitzgerald, namely, Martin M. Lomasney and Commissioner Edward P. Murphy, with this conspiracy.

All the above facts clearly establish a conspiracy, and bring the case within the doctrine laid down in

Moore vs. Funston, 53d Congress, Rowell, Contested Election Cases, p. 491, which holds

"the text writers and other law authorities treating of the subjects recognize the difficulty of proving conspiracy by direct evidence; and as in the case of fraud in general recognize also the propriety as well as necessity of proving distinct facts, many of them insignificant in themselves, from all of which, however, where sufficient, a firm belief in the existence of the conspiracy or fraud may safely be deduced, and the conclusion may be as safely acted upon. In many cases circumstantial evidence is the only evidence which can be obtained, and it is also not infrequently of the most satisfactory and convincing character."

Prior knowledge and authority of the party who may benefit from the unlawful acts are not essential where it is

evident that he has benefited by them and has accepted the benefits.

In regard to the illegal registration, fraud and intimidation practised in Ward 5, both on Primary and on Election day, we submit that the rule of Congress is clear that if such illegal registration, fraud or intimidation so permeates a precinct as to make it impossible to distinguish the good from the bad votes, or the Committee is unable to ascertain for whom the fraudulent votes were cast, the whole precinct should be rejected. The following is a summary of the votes of those precincts:

	Fitzgerald	Fletcher	Tague
Prec. 4.....	163	7	20
Prec. 8.....	227	16	33
Prec. 9.....	284	89	67
	674	112	120

which shows a net majority of 554 votes for Fitzgerald. We contend that these precincts should be thrown out because of the fraud which prevailed.

Although the Massachusetts Election Laws expressly commands that no ballot shall be counted unless marked on the back thereof as having gone through the Ballot Box, the Election Commissioners insisted on counting several hundred ballots cast in Precinct 4 of Ward 5, which were put in the Ballot Box without having gone through the machinery. (See Mass. Chap. 835, Sec. 303, Acts of 1913). (See also testimony of police officers Tomlinson and Shea).

This election was held under the provision of law requiring official ballots which were provided by the Commonwealth, and the provision that such votes shall not be counted is explicit and mandatory and admits of no construction which violates the positive spirit and injunction of the law. Where a statute expressly provides that a failure to observe its provisions shall invalidate the election or any votes cast therein, there can be no doubt as to its construction. Negative words make a statute imperative. (See Dwarris, on Statutes 611.)

ALL THE ABOVE INSTANCES OF FRAUD CLEARLY BRING THIS CASE WITHIN THE DOCTRINE LAID DOWN IN

Mitchell vs. Walsh, Rowell's Dig. Contested Election Cases, 521 (see also same case 2 Hinds, P. 263)—wherein the doctrine of fraud in a case of this kind is exceptionally well stated.

“fraud can rarely, if ever, be proven by direct evidence, and the rule is that whenever a sufficient number of independent circumstances, which point to its existence, are clearly established, a *prima facie* case of its existence is made, and if this case is not met with explanation or contradiction, it becomes conclusive.”

See also Noyes v. Rockwell. Rowell Dig. Contest Election Cases, p. 474.

In the present case there has been no explanation or contradiction of the charges of illegal registration and voting; no excuse given for the assault, coercion or intimidation. Nor has anything been offered to explain why the subterfuge of aiding voters was resorted to. The importance of the principle laid down concerning fraud in the case above cited has an exact application in view of the fact that several hundred witnesses accused of illegal registration refused to appear for examination, although duly summoned. If these men accused of illegal registration and voting were honest bona-fide voters in the district, there can be no conceivable reason why they should seek to evade giving testimony of the fact. Their deliberate and concerted absence can have but one excuse, namely, that if present and testifying truthfully, they would establish the contention of the contestant that they had no right to vote for the contestee at either the Primary or election.

REFERENCES TO THE LAW IN THIS CASE

The contestant feels that the amount of fraud which permeates this case from beginning to end, is so inextricably interwoven into all the testimony from beginning to end, that it seems needless to single out any particular instances or application of any specific law. The contestant maintains that the evidence proves that it was the intention of the majority of the voters of the district, to elect him, and he asks only for the application of the ordinary principles of fair play in counting votes which indicate the intention of the voter, and he prays this Committee, that votes which were cast, carrying with them the intention of the voter, be counted for him. If the contestant did not have a majority of the votes of those who were rightly entitled to vote in the district, he does not wish to have the seat declared vacant on account of any technicality. He is firmly convinced, however, that on the merits of the case, he won the Primary Election, and later on was duly chosen by the majority of the voters on Election Day.

For the guidance of the Committee, the contestant merely desires to indicate a few of the beacon lights of the principles governing cases of this kind.

I.

PRIMARY

The House of Representatives has plenary jurisdiction over primary elections, when the subject is raised in a contest for a seat after the primary election, on the ground that the candidates voted for on election day, were the candidates of the Democratic, Republican or other party, and it was not a personal candidacy. See

Grace v. Whaley, 63d Congress, Moore's Dig. p. 71.

Fairchild v. Ward, 55th Congress, Rowell's Dig. Contested Election Cases, p. 559; also

In the first cited case which dealt entirely with the primary,

both the majority and minority reports of the Committee emphasized the importance of the right of Congress to inquire into primary contests. The majority said:

“The honest election of each member of this House is a matter of the highest importance both to the House and to the people at large. When a question is raised as to the election of one of its members, the House should stand ready to make a thorough investigation, and promptly expel the member whose seat was obtained by fraudulent or dishonest methods. Nothing should be permitted to prevent or impede a thorough investigation.”

They recommend that no action be taken on the matter, because the contestant was found to have been guilty of laches and not having instituted his contest in accordance with the provisions of law; but the minority felt that the charges affecting the primary were of so serious a nature that they should be inquired into on the ground that the charges having been sworn to, presented a *prima facie* case, which warranted a thorough investigation. In our case, all the provisions of law have been complied with by the contestant, and all the testimony concerning the irregularities of the primary is sworn to.

The contestee in this case was awarded the primary nomination by the bare margin of fifty votes over the contestant, in a solidly Democratic district, wherein it was conclusively proven later on by the phenomenal run which the contestant made by the use of stickers, that if he had the nomination, he would surely have been elected. There was illegal registration and illegal voting by upwards of 400 men, concerning which the testimony is uncontradicted and uncontravertible, who voted in this district in the stronghold where the contestee received most of his votes, viz., Ward 5, the home of the Hendricks Club. The contestant maintains that these votes should be thrown out. When to these illegal voters are added the names of soldiers and sailors, whose names had been voted on, while they were absent in the service of their country, it

would seem as though this Committee might well strike at the very root of this matter in the beginning, and find that the fraud perpetrated on behalf of the contestee, in securing his nomination, voided his nomination, thereby giving the nomination to your contestant.

II.

THE ELECTION

Your contestant maintains that the intention of the voter is the principle which should guide the Committee in ascertaining the result of the election. Congress has always looked to the intention of the voter, and has held that local laws were not binding on Congress, whenever they were at variance with this principle.

In other words, Congress has insisted that the constitutional right of a man to cast his vote for a candidate cannot be nullified by any laws, rules or regulations for, or at variance with this principle. See

Steele v. Scott, 65th Congress, Rep. p. 7,

wherein this principle was laid down, "while the manner of marking ballots was not in strict accordance with the provisions of the law, yet in the judgment of your Committee, the intentions of the voter were entirely clear and these votes are to be counted." See also majority report in

Britt v. Weaver, 65th Congress, Rep.,

which case is clearly in point, and where the doctrine is well stated that the intention of the voter may be clearly established without marking a cross, although the law of the state required a cross to be placed after a name, and where the voter neglected to mark a cross. See also

Wickersham v. Sulzer, 65th Congress, p. 5 of report

Moss v. Rhea, 57th Congress, Moore's Dig., p. 12.

Both of these cases and many others, cited in them as authorities, held that the intention of the voter must prevail over

state laws and requirements, on the ground that laws such as that of Massachusetts, which requires a cross to be placed after the name of a candidate, is directory and not mandatory. The Massachusetts law in question, is found in the Acts of 1913, Chapter 835, Section 292, which reads as follows: "the voter on receiving his ballot shall, without leaving the enclosed space, retire alone to one of the marking compartments and shall, except in the case of voting for presidential electors prepare his ballot by marking an (X) in the square at the right hand of the name of each candidate for whom he intends to vote, or by inserting the name of such candidate in the space provided therefor, and marking a cross in the square at the right;—"

Construing this law, the court said in

Ray v. Ashland, 221 Mass. 223,

"the rule is that 'if the intent of the voter can be fairly determined, effect shall be given to that intent, and the vote counted in accordance therewith—.' If not prohibited by statute, the ballots which fairly and unmistakably express the voter's purpose, are to be counted as deposited in the ballot box," and again p. 227 "it must be borne in mind that our laws relating to elections are enacted not merely to preserve the purity and secrecy of the ballot and to curb, in so far as possible, corrupt practices, but to ascertain and not to thwart the will of the people honestly expressed." It should be borne in mind that in our case, the sticker which was used, bore the words

"TAGUE, Peter F., for Congressman, 10th Congressional District."

It is earnestly contended that when a voter went to the trouble of securing a sticker printed as above, and placing it on the ballot and not voting for any other candidate for congressman, that he clearly indicated his intention to vote for Mr. Tague for the office designated on the sticker, and the oversight of not having put a cross after the office, should not

be seized upon to disqualify or to disfranchise such a voter. See

Brown v. Hicks 64th Congress, Moore's Dig., p. 84, wherein the Committee, taking up a situation somewhat similar said "it being conceded that the votes cast for the contestee in the several precincts complained of, were cast by honest voters and qualified voters of the district, then we submit that the case should not be decided by any technicality arising in the manner or form in which the voter received his ballot, or in the count thereof." In this case there is no intimation that the stickers placed on the ballots for Mr. Tague were not placed there by those who had a perfect right to so place them, and that they were entitled to cast a vote. See also *Carney v. Smith* 63d Congress, Moore's Dig., p. 73.

III.

DOCTRINE AS TO COUNTING STICKER VOTES

Congress has addressed itself to the subject of paster or sticker votes in the past. See

Frederick v. Wilson 48th Congress, Mobley 404, and Rowell's Dig., p. 640.

"Where a 'paster' is put on the ballot so as not to cover the name of the opposing candidate, **the paster should be regarded as the last act of the voter and counted.**" The same rule should be applied when the name of the candidate is written, and the printed names of the other not erased.

Greevey v. Skull, 52d Congress, Stofer, p. 161. See also Rowell's Dig. p. 640.

"Where a ticket had on it a paster bearing the name of the contestant, but leaving the name of the contestee exposed, the committee held that the placing of the sticker was the intent of the voter and counted the vote for the contestant; the election officers had counted it for the contestee.

IV.

WRITTEN BALLOTS

In addition to the printed pasters or stickers, above described, many voters who evidently did not or could not receive the aforesaid stickers or pasters, manifested their intention of voting for Mr. Tague, by writing his name in, and although many hundreds of these were spelled correctly, yet there were many which were not so spelled, and they were not counted. It is urged that the same principle which governs the counting of printed pasters or stickers, governs that of the written name, because the voter clearly shows his intention and if there is any way of gathering from the manner in which the name is spelled, that the voter intended it to be counted for Mr. Tague, then it was the duty of the Election officials to so count the vote. In many instances where votes were not counted, the name of Mr. Tague was spelled phonetically correct, so that there could be no mistaking the purpose of the voter, even though the name was not spelled in accordance with the accepted manner of spelling Mr. Tague's name. See

Wallace v. McKinley 48th Congress, Mobley, p. 157,

“where the name of the contestant written on the ballot, under the printed name of the contestee—it should be counted for the contestant.” Many cases decided by Congress, as well as many others in Massachusetts are in accord on this principle.

Williams v. Powers 13th Congress, Rowell's Dig., p. 65.

McKenzie v. Braxton, 42d Congress, Rowell's Dig., p. 265, **wherein even initials were held sufficient evidence of intention.**

48th Rowell's Dig., p. 407.

“Wrong spelling does not invalidate a ballot, but must be counted in accordance with the intention of the voter, as he best could indicate it.”

McDonald v. Young, 63d Congress, Moore's Dig., p. 163

—— *v. Robbins*, Mass., Russell, Mass. Contested Election cases.

V.

INTIMIDATION AND COERCION

Congress has always taken a stern position on the matter of intimidation and coercion, and has on many occasions expressed their disapproval of such conduct and their unwillingness to seat the member who has benefited by such practice. The testimony of Thomas J. Glynn, John Gibbons, James J. McCarthy and Halpern, whose testimony is uncontradicted, that watchers for Mr. Tague were assaulted and driven from various precincts in Ward 5, and the assault on a voter who had expressed his preference, all of which has gone unchallenged, in the record, leaves this committee with the picture of a situation which prevailed in Ward 5 on last election day, which men of wide knowledge of affairs must conclude, meant that nobody except those who were known to be favorable to the candidate of the "Boss Lomasney," were to be permitted to vote. It should be borne in mind that in this ward, was located all the illegal registration, and that watchers were placed there by Mr. Tague for the purpose of preventing these men from voting. The chasing away of the watchers by intimidation, coercion, assaulting and frightening them, prevented your contestant of availing himself of the laws of Massachusetts, and permitted the fraud of illegal voting to go unchallenged. None of the precinct officers or election officials of either party who participated and saw these events, were called upon by the contestee to refute any of this testimony, and inasmuch as it is permitted to remain unchallenged, it must be found that it is truthful and that the intimidation had the effect desired by those in control of Ward 5. The contestant was deprived thereby of the safeguards of the law, and there was given an unbridled and unrestrained assurance to the workers in favor of the contestee, to continue the illegal voting which had been born of the illegal registration, which is so conclusively shown to have existed in that ward. See

Mudd v. Compton, 51st Congress, Rowell's Dig., p. 447.

The whole precinct in which this intimidation prevailed should be thrown out. See also

Shafer v. Tillman 41st Congress, Rowell's Dig. p. 257.

Mitchell v. Walsh, 54th Congress, Rowell's Dig. p. 521.

Benoit v. Boatner (2d case), 54th Congress, Rowell's Dig. p. 526.

WHERE INTIMIDATION IS SHOWN, THE BURDEN IS
ON THE CONTESTEE TO SHOW THAT THE
RESULT WAS NOT AFFECTED.

"Where intimidation is practised over men, sufficient in number to affect the result, the burden of proof devolves upon him in whose interest the intimidation is committed, to show that the intimidation did not affect the result. If this proof be not made, and intimidation is so interwoven with the vote that it is impossible to separate with reasonable certainty the good from the bad votes, then the bad votes should be rejected."

Hurd v. Romeis, 49th Congress, Mobley, 444.

The doctrine above set forth has complete application to the present case.

1st. Because of the large number of illegal voters, who were registered and voted in Ward 5.

2nd. By the narrow margin concededly existing in this case between the total votes of both contestant and contestee.

3rd. In view of the other features of the case, concerning the wrongful counting of the sticker votes without the cross. See also

Smalls v. Elliot, 50th Congress, Mobley 680.

When the evidence shows conclusively that violence, threats and intimidation have been used to affect the result at the precinct the whole vote should be rejected. See also

Smalls v. Tillman 47th Congress, 2 Ellsworth, 435.

See also

Whyte v. Smith, 35th Congress, Bartlett 262

where a whole election may be vitiated by intimidation.

VI.

ILLEGAL REGISTRATION

The amount of illegal registration which has been shown to have existed in Ward 5 by the testimony, which was not refuted or contradicted in any way, should have the greatest weight with your committee in favor of the contestant because the places in which the alleged illegal registration was practised were the strongholds of the Hendricks Club and Mr. Lomasney, and it is an assumption clearly within reason, that this illegal registration was for the purpose of aiding the Hendricks Club in its domination of the ward, by permitting it to carry elections of the candidates selected and supported by said organization. In this case, Mr. Fitzgerald was the choice of Mr. Lomasney, the boss of the ward, and was supported by his organization, the Hendricks Club. Mr. Tague carried the Congressional District by a very large vote outside of Ward 5 and was beaten in a ratio of 5 to one in Ward 5 or in exact numbers 2570 for Fitzgerald to 572 for Tague. The places in Ward 5 where illegal registration seemed to flourish unchecked were precincts 4, 8 and 9. The attention of the committee is directed to the fact that those who practised the illegal registration, were ninety per cent. composed of bar tenders, saloon keepers and city employees, who lived outside this district, and who were summoned into court by the contestant (see evidence of Mr. Tague). Evidence was given as to their residence outside the district of these registrants; but these men did not come in to deny or explain the evidence against them, if it was in any part untrue or unfair. They refrained from testifying, although some of them attended hearings when the contestee was putting in his case. The illegal registration in this case does not admit of finely spun explanations, drawn on close lines on account of technical domicile claimed, because there is no defense on the part of hundreds of these specified cases that there was any justification other than that of colonization. It was palpably for the purpose of voting in the democratic primary,

and *a fortiori* for the candidate of Boss Lomasney on election day in this Tenth District.

That Congress has always looked with disfavor upon the practice of voting in a district when the domicile was in another district,—is very evident from the long line of decisions. See

Cessna v. Myers, 42nd Congress, Rowell's Dig., p. 266.

McCrary on Elections, 2d Edition,

Wickersham v. Sulzer, 65th Congress, pages 12—20. See also

Sears v. Boston, 1 Metcalf, p. 250.

The committee's attention is called to the fact that much of the illegal registration took place from bawdry houses, which in itself is *prima facie* evidence of fraud. See

Horton v. Badger 57th Congress, Moore's Dig., p. 15.

Wagner v. Butler, 58th Congress, Moore's Dig., p. 20.

Mitchell v. Walsh, 46th Congress, Rowell's Dig., 521.

VII.

REJECTION OF VOTES OF PRECINCTS WHEREIN ILLEGAL VOTING WAS PRACTISED

At this point your contestant asks this committee to take into view the whole atmosphere connected with this case. Your contestant has urged and has proven that a great amount of fraud permeated both the primary and election. The headquarters of the fraud has unquestionably been placed in Ward 5, where through the manipulation of Mr. Lomasney, the manager of the contestee and his organization, the Hendricks Club, practices were permitted and pursued which are offensive in their character, in violation of the law, and could be attempted and carried out only with the idea in mind of committing fraud on election day. If fraud is found to have permeated this district, then this committee should recommend that the vote of those precincts in which fraud is conclusively proven to have flourished, should

be rejected. This has been the policy of Congress in cases of this kind in the past, and it seems to be a sound exercise of judgment. This is the only way in which fraud of this kind can be thwarted and prevented and Congress has not hesitated to invoke such a remedy in order to arrive at justice. See

Wagner v. Butler, 57th Congress, Moore's Dig., p. 20.

Gill v. Dyer, 63d Congress, Moore's Dig., p. 88.

IF FRAUD SO PERMEATES A PRECINCT SO AS TO MAKE IT IMPOSSIBLE TO DISTINGUISH THE GOOD FROM THE BAD VOTES, OR THE COMMITTEE IS UNABLE TO ASCERTAIN FOR WHOM THE FRAUDULENT VOTES WERE CAST,—A PROPORTIONAL DEDUCTION FROM EACH CANDIDATE HAS BEEN THE RULE FOLLOWED BY CONGRESS. See

Wickersham v. Sulzer, 65th Congress Report, p. 20.

Britt v. Weaver, 65th Congress report p.

Finley v. Wells 42d Congress, Smith 373.

McCrary on Elections, p. 364.

VIII.

ELECTION PRACTICES

One of the striking manners in which fraud was practiced in Ward 5, was by suggesting to the voter that he needed assistance and when the voter, who, of course, was under domination of the ward boss, said "yes," this permitted the organization to really vote his ballot for him. The manner in which this was practiced was conclusively indicated through the testimony of John Gibbons in his description of the manner in which Patrick McNulty, one of the Hendricks Club members, marked the various ballots of those who were brought in and told to ask for assistance. It is a subtle practice, but its purpose is evident and it is sure method of controlling votes. The presence of this man McNulty, pursuing this method, also ex-

plains the desire to drive off the watchers for Mr. Tague, and unquestionably, many hundred votes were cast in this way, which it is impossible for the committee to know about, because the various watchers had been expelled. See

Gill v. Dyer, 63d Congress, Moore's Dig., p. 84.

Use of Fraudulent Stickers to Deceive Voters

The crowning fraud in this case, and one which is probably the most offensive and without any possible justification and which can find no possible excuse in the eyes of decent men, was that pursued by the representatives of Mr. Fitzgerald the contestee, who stood at the polls on election day and handed stickers with the name of Mr. Tague printed on them, but which were without gum, that when the voter having voted as he supposed for Mr. Tague and wet the sticker, putting it on the ballot, was thereby frustrated and deprived of that vote for Mr. Tague, because when the moisture dried, the sticker or paster fell off and was lost. This practice is despicable from every possible view point. It must have been born of a conspiracy, hatched by men who were familiar and acquainted with all the refinements of election frauds. The committee should not overlook the fact that there is a close connection between the contestee in this case and those who distributed the ballots. According to the evidence of Dennis F. O'Neil, William A. Murray and others, these pseudo stickers were distributed by one of Mr. Fitzgerald's principal lieutenant's, viz., Representative Ahearn who presided at Mr. Fitzgerald's rallies, and was regarded as one of his personal managers. Wide publicity was given to these charges in the Boston papers during the trial, because the charge was so sensational in its nature, but in spite of that fact, neither Mr. Ahearn nor Mr. Fitzgerald took the stand to deny the charges. It must be found that the charge is substantiated and is truthful, and since the committee must find this to be true, it can very easily disregard everything else in this case and put the stamp of its most severe censure on

such practices. To carry out this conspiracy it was necessary to go to the expense of printing and having men stand at the polls and hand out these pseudo stickers. It was intentional deceit and fraud. The testimony shows that these stickers were used particularly in Wards 1 and 2 in East Boston, where the fraud was more open and notorious than elsewhere. The attention of the committee is called to the report of the Election Commissioners of the City of Boston wherein it is shown that the percentage of blanks in an election contest in Boston is nominally about $2\frac{1}{2}$ per cent. At this election in this district, contested as it was, with tremendous bitterness and with an exceptionally aroused determination on the part of the voters to participate in the election for this particular office, we find that the number of blanks for Congress in the Tenth District, was about $7\frac{1}{2}$ per cent., whereas for all other offices on that same ballot, the percentage was about $2\frac{1}{2}$ per cent. This is particularly true in Wards 1 and 2. See Report of Boston Election Commissioners for 1918, pp. 117, 118, 119.

On all the evidence as set forth in this case, the contestant prays that the committee on elections recommend to the House of Representatives to find as follows:

1st: That fraud of an unforgivable nature was perpetrated at the primary by voting on the names of absent soldiers and sailors.

2nd: That there were illegally registered more than 500 votes in Ward 5, which were voted on at the Democratic primary and also on election day, and that the vote cast in Precincts 4, 8 and 9, wherein this illegal registration was most widely practiced, should be deducted from the contestant's and contestee's total.

3rd: That the contestant Peter F. Tague was the duly nominated candidate of the Democratic party in the Tenth District at the Primary held September 24th, 1918, and that he should have been awarded the certificate of nomination.

4th: That the contestant has sustained all the charges made in his notice of contest and that the contestee has failed to re-

fute any of the same so made and substantiated by testimony ; and finally

5th. That the use of false and fraudulent stickers intentionally distributed for the purpose of deceiving the voters in and of itself, constituted a wrong against the voters of the Tenth District, and a fraud against your contestant, depriving him of more than sufficient votes to have overcome the contestee's plurality, and

That Peter F. Tague be declared to be chosen the representative in the Sixty-sixth Congress of the United States from the Tenth District of Massachusetts, and that it was wrong on the part of the Election officials of the City of Boston not to count the stickers which had been placed on the ballot with the name of Peter F. Tague and which so counted would give him a plurality of the votes cast.

JOSEPH F. O'CONNELL,
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ARTHUR HARRINGTON,
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Attorneys for Contestant.

United States of America

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS.

Contested Election Case of

PETER F. TAGUE

vs.

JOHN F. FITZGERALD.

TENTH MASSACHUSETTS DISTRICT.

CONTESTEE'S BRIEF.

JOHN P. FEENEY,

TIMOTHY F. CALLAHAN,

VINCENT BROGNA,

Attorneys for Contestee.

Ms 5-16-32

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CONTESTEE'S BRIEF.

CONTESTEE'S REPLY.

At the election in the Tenth Mass. District for Representative to Congress, comprising the first six wards in Boston, John F. Fitzgerald, Democrat, received 7,241 votes, Peter F. Tague, Independent, received 7,003 votes, Mr. Fitzgerald receiving a plurality of 238 votes.

This is the final plurality after a recount of the ballots by the Boston Election Commission, and tabulated and certified by the Governor of Massachusetts and Governor's Council as prescribed by law.

The contestant in this case bases his claim to the seat in this district not only on irregularities alleged to have existed at the election, but also on alleged irregularities at the primary, in September, 1918.

He asks for a review of the primary as well as the election.

Primary

The primary was held in September and on the final count by the Boston Election Commission John F. Fitzgerald was declared nominated by 50 votes. This return was unanimous and made after a recount of the votes by the Election Commission on petition of Peter F. Tague.

This Commission is by statute a bi-partisan board composed of two Democrats and two Republicans.

Not content with the decision of this Commission, the contestant, petitioned for a review of their findings by the State Ballot Law Commission, a bi-partisan board appointed by the Governor of Massachusetts.

This petition was filed after the time allowed by the law (see Sec. of State Boynton testimony), and under ordinary circumstances would be dismissed, but the contestee insisted on waiving all legal and technical objections to the petition (see Lomasney testimony), and the contestant was permitted to proceed with his case.

After a very complete and exhaustive investigation of the claims and objections of the contestant, this bi-partisan board unanimously declared Mr. Fitzgerald nominated.

"Findings of Ballot Law Commission

The issues heard by us were illegal voting and alleged fraud on the part of the election commissioners of the City of Boston in conducting the recount of

votes cast for this nomination in the primaries on September 24, 1918.

Because of the importance of these issues bearing upon the integrity of the election and the conduct of a public board we file this memorandum with our decision.

The fraud alleged on the part of the Election Commissioners consisted in the obtaining of 1,000 additional ballots from the State printer on the afternoon of the primary to provide for anticipated shortage; and the delay in granting Mr. Tague an inspection at the recount of the unused ballots in an endeavor to discover 50 Democratic ballots claimed to have been cast and not counted in ward 5, precinct 4, it appeared that the crank of the registering ballot box could not be found at the opening of the polls at 6 a. m., whereupon the emergency ballot box was used until 8.15 a.m., when the ballots taken in the emergency box were publicly, one by one, taken out and transferred to the registering ballot box. The ballots cast and not cast in that precinct were counted by us and the names checked on the voting list agreed with the total number of ballots cast. The total of ballots cast and not cast also agreed with the number of ballots furnished by the secretary of the Commonwealth.

We find that this use of the emergency ballot box and the transfer of the ballots to the registering ballot box were not fraudulent and they in no way affected the result of the election.

In ward 5, precinct 3, the canceling device of the registering ballot box did not print the precinct number, although the cancellation in all other respects was perfect. This could not be discovered until the polls were closed and the ballot box was opened. It

was claimed that the ballots in this precinct should all be rejected because of this defect. The voters who voted in this precinct can not be disfranchised by this defect of the cancelling device.

Minor irregularities on the part of some of the precinct officers were shown but they in no way affected the result.

The rule of law governing us on this branch of the case is stated by Attorney General Pillsbury in Russell's Massachusetts Election cases, page 52:

'It is a settled rule of election law that mistakes or fraud of election officers shall not invalidate a vote lawfully and regularly cast, and that is a salutary rule in the interest of the public no less than of the voter.'

Three cases of illegal voting upon the names of registered civilians were proved.

It was alleged that 17 illegal votes were cast upon the names of soldiers and sailors in the United States service claimed to be absent at camps or stations, so that they could not have been in Boston on the days of the primaries. In five cases this has been proved. In the remaining 12 cases information of the whereabouts of these men on the day of the primary which we have sought by direct communication with the Army and Navy has not been received.

The law governing cases of illegal voting is stated by the Supreme Court of this Commonwealth in *First Parish v. Stearns*, 21 Pickering, 148, and in the contested election case of *Alexander v. Doyle*, Russell's Massachusetts Election cases, page 57; the latter case decided in 1894, since the adoption of the Australian ballot system.

The rule in these cases is that in order to set aside the election of a person it is necessary not only to

prove that fraudulent votes were cast at the election, but also for whom they were cast, and that the number was sufficient to change the result.

Applying the above rule and assuming that all those were illegal votes and were cast for John F. Fitzgerald, which has not been proved, the result would not be changed, for if all of these illegal and alleged illegal votes were taken from his total number he would still have a majority of the votes cast.

HENRY V. CUNNINGHAM,
FRANCIS W. ESTEY,
THOMAS M. VINSON."

There has been no new evidence produced since this finding that would in any way change the result. There has only been a criticism of the board, a charge that the board was intimidated, and a charge that the hearing was conducted in an illegal and fraudulent manner, but no evidence to sustain any of these charges (see testimony of Contestant Tague).

These charges have been decisively disposed of by Mr. Cunningham's testimony, pp. 116-117, 120, as follows:—

"Q. In their bill of complaint they allege in their first specification that they bring that complaint because the hearings before the Ballot-Law Commission of the Commonwealth of Massachusetts were conducted in an illegal, fraudulent, improper, prejudiced manner. What have you to say to that? A. The hearing was conducted according to law, fairly and without prejudice.

Q. This specification, 'the Commission refused to summon witnesses and that their names and addresses and sufficient money to summon said witnesses were in the possession of the Commission.' Is that so, Mr.

Cunningham? A. Every witness was summoned we were requested to summon.

Q. It has been alleged in the bill of complaint and Congressman Tague has testified that Mr. Lomasney was in the room and his physical presence there had something to do with the findings of your Board. Is that so, or not? A. It is not.

Q. Were there any more courtesies shown Mr. Lomasney or to counsel for Mr. Fitzgerald than were shown to Congressman Tague and his counsel? A. As courteous? I should not use that. The same deference. We attempted to pay the same deference as a quasi-judicial tribunal would be expected to to counsel conducting the case.

Q. Were you or your board frightened or intimidated by the presence of Mr. Lomasney? A. No."

Mr. Cunningham, the chairman of the Ballot Law Commission, is a leading citizen of Boston, a highly respected member of the Massachusetts bar since 1887, a member of the Ballot Law Commission since 1893, and its chairman for about fifteen years.

No evidence has been produced to justify Congress to repudiate the unanimous decisions of these two election boards.

Presumption in Favor of Acts of Election Officers.

"Officers of elections are presumed to have acted under the law." *Easton vs. Scott*, 14th Cong. C. and H. 280.

"It is presumed that officers of election did their duty." *Frost vs. Metcalfe*, 4th Congress, 1 Ells. 290.

"The presumption that sworn officers of the law have done their duty must obtain until the contrary

clearly appears." *Boynton vs. Loring*, 4th Cong. 1 Ells. 350.

"The presumption of law is that officers charged with the duty of ascertaining and declaring the result of the election have faithfully performed their duty." *McDuffie vs. Davidson*, 50th Cong. Mobley, 581.

Mere allegations and charges of illegality and fraud do not overcome the presumption of law and the contestant has not sustained the burden of proof.

Shortly after the recount of the primary, and prior to hearing of Ballot Law Commission, the contestant petitioned the Chief Justice of the Boston Municipal Court for an inquest as provided in the following statute.

"Acts of 1913, Chap: 835, Sections 372-378.

Inquests in Election Cases.

SECTION 372. Upon a complaint subscribed and sworn to by any person before a police, district or municipal court or a trial justice, alleging that reasonable grounds exist for believing that any law relating to the assessment, qualification or registration of voters, or to voting lists or ballots, or to primaries, caucuses, conventions and elections, or to any matters pertaining thereto, has been violated, such court or justice may at once hold an inquest to inquire into such alleged violation of the law.

SECTION 373. The court or trial justice may exclude all persons whose presence is not necessary at such inquest; and may also direct the witnesses to be kept so separated that they can not converse with each other until they have been examined. The attorney-general, the district attorney or some person designated by either, shall attend the inquest and examine the witnesses.

SECTION 374. Such court, justice, or attorney may issue subpoenas for witnesses, who shall be allowed the same fees, whose attendance may be enforced in the same manner, and who shall be subject to the same penalties, as if served with a subpoena in behalf of the Commonwealth in a criminal prosecution before such court or trial justice.

SECTION 375. Such court or trial justice may employ a stenographer and may have the proceedings reduced to writing; and if he finds that the law has been violated, shall report to the superior court all the material facts and the names of any persons guilty of any such violation.

SECTION 376. The court or trial justice may bind over, as in criminal prosecutions, such witnesses as are necessary, or as said attorney may designate, to appear and testify in the superior court.

SECTION 377. If a person charged by the report with the commission of an offense is not in custody, the court or trial justice shall forthwith issue a process for his apprehension; but such process may issue before the filing of said report, if otherwise lawful.

SECTION 378. No person shall be excused from testifying or producing any papers in any inquest proceedings under this act on the ground that his testimony may tend to criminate him or subject him to a penalty or forfeiture, but he shall not be prosecuted or be subject to a penalty or forfeiture for or on account of any action, matter or thing concerning which he may so testify, except for perjury committed in such testimony."

A hearing was held before Chief Justice Bolster, which was adjourned to give Mr. Tague opportunity to obtain

and produce evidence, but no evidence was produced. No subsequent hearings were held. If the contestant had faith in his claims, certainly no better opportunity to prove them could be furnished than by this statute, with its great investigating power. His failure to press his claim before a properly constituted judicial tribunal with complete investigating power, created for the very purpose of eliminating fraud in elections, shows clearly a lack of sincerity in that claim, and that it was intended only as campaign material to influence public opinion through the press.

With a firm belief that this Committee will not attempt to change or even review the unanimous findings of these two Commissions, we shall confine ourselves to the claims of the contestant on the merits of the election.

Election.

At the election in November, the contestant ran on stickers, and after the recount of the Boston Election Commission, Mr. Fitzgerald had a plurality of 230 votes, to which later was added a plurality of 8 votes cast by soldiers under the absentee voting law, making the total plurality 238, and this was tabulated and certified by the Governor and Council.

The Votes of Soldiers Cast Under the Absentee Voting Law Should be Counted.

In the testimony of Mr. Boynton, deputy secretary of state, it was shown that six ballots were received (on or before the 8th day of November, three days after the election), from soldiers in the service of the United States.

Of these ballots five were for contestee and one for contestant. Under the Massachusetts Absentee Voting law

all ballots for State offices received before November 30th are counted, but as this does not apply to candidates for federal offices, these ballots were not counted. But it would be unjust and unfair to disfranchise these soldiers, and we respectfully urge that these votes be counted.

Recount of Election.

The contestant claims that he received more votes on election day than the contestee, but that said votes were not counted for him by the Election Commission.

The evidence proves that the recount of the ballots cast at election was held with the greatest degree of care, fairness and publicity. The contestant was represented by counsel, had watchers at each table where votes were being recounted, and all disputed ballots were decided after argument of counsel and before representatives of all the Boston daily papers.

Testimony of Commissioner Wasserman, page 660.

“Q. What is your name, please? A. Jacob Wasserman.

Q. You are an election commissioner of the city of Boston? A. I am.

Q. And you are an attorney? A. Yes.

Q. And were you election commissioner during the past year when they had the recounts in this congressional fight? A. Yes.

Q. And you are a Republican, Mr. Wasserman? A. Yes.

Q. And you are a Republican member of that Board? A. I am.

Q. That is a bi-partisan board? A. A bi-partisan board.

Q. Two Democrats and two Republicans? A. Yes.

Q. At the recount of the election, Mr. Wasserman, what would you say as to the way that was con-

ducted? I have now reference to the propriety of the occasion. A. It was conducted openly.

Q. Yes. A. And without any trouble of any kind.

Q. Now, when you say 'openly,' who were there, as you recall it, at the recount? A. The four commissioners, representatives of Mr. Tague and Mr. Fitzgerald.

Q. Your Board saw to it that Mr. Tague had adequate representation or the opportunity for adequate representation at that recount? A. He did have.

Q. And it was arranged so that he could have two watchers at each table, Mr. Wasserman? A. Yes.

Q. Now, the recount of these ballots for the election was held in the outer room; your big work room, wasn't it? A. Yes.

Q. And the questioned or disputed ballots were then brought into the office of the commissioners? A. Yes.

Q. And who was present when those disputed or questioned ballots were gone over? A. All of the commissioners and the representatives of both parties.

Q. That is, Mr. Tague was there a great deal of the time? A. Mr. Tague was there.

Q. And Mr. O'Connell, his attorney? A. Mr. O'Connell, Mr. Goodwin, Mr. Harrington, Mr. Feeney, myself, yourself, and I think Mr. Brogna was there part of the time.

Q. There were also members of the press there? A. Yes.

Q. Were there? A. Yes.

Q. And they were there at the invitation of your commission? A. Exactly.

Q. Each newspaper in Boston was represented? A. I believe so.

Q. Now, in determining those questioned or disputed ballots, Mr. Wasserman, were they all determined there in the presence of counsel and in the presence of the press? A. Yes."

The contestant was represented by counsel and watchers at the recount, and sufficient opportunity was given to see how ballots were counted, and ample opportunity was given to have ballots described in order to show why ballots now claimed by the contestant were not counted for him; but there is no proper description of these ballots in evidence, and no proper evidence tending to show that any of them should have been credited to the contestant.

To be sure there are some 1,300 or more ballots as exhibits in the case, but these ballots are not described by members of the election commission or any witness to show why they were counted for the contestant or contestee as the case may be. **Counsel for the contestant, over the objection of contestee's counsel described in an inaccurate and wholly biased manner a great many ballots, but the contestee respectfully submits that the description of these ballots by counsel and not by proper witnesses, is contrary to all rules of evidence, and should not be considered by a congressional committee.**

If the contestant did not legally, accurately and through proper witnesses prove that ballots were counted wrongfully, he can not now make any such claim, as such contention is clearly unsupported by evidence.

Paster or Sticker Ballots.

The contestant claims that there are ballots with stickers not crossed that should be counted for him. Also that there are ballots on which his name is written some crossed, and others not, which were not counted for him.

Although there is no proper evidence before the committee on these allegations, the contestee desires to state that all ballots where it could be reasonably inferred from the spelling that the voter intended to vote for contestant, were so counted by the election board.

Regarding ballots that contained stickers that were placed on them but were not crossed, the contestee asserts that though there is no proper evidence of these before the committee, the election board in any event would not be justified in counting such ballots.

“where the official ballot bore only the name of one candidate, and the printed name of another candidate had been pasted in the blank space left at the end of the list of candidates, but without an X mark or other mark in the space at the right of either name (or elsewhere upon the ballot, as I understand the question), such ballot can not be counted for either candidate.

* * * * *

The great purpose of the act is, unquestionably to promote the purity of the ballot, by insuring a free and intelligent expression of the voter's choice, in secret and on the spot; and the intent of the act, so far as it concerns the question now under consideration, seems clearly to be that he shall indicate his choice by the affirmative act of marking the ballot * * *.”

Opinion of Attorney-General Pillsbury, Opinions of Attorneys-General of Massachusetts, Vol. 1, 1891-1898.

Section 107, Chap. 835, Acts of 1913 of Massachusetts, provides that

“No names shall be printed on a ballot other than those presented on nomination papers. Immediately following the names of candidates, blank spaces equal to the number of persons to be chosen, shall be provided for the insertion of other names.”

and Section 108, of same chapter, of said Act provides that

“A cross (X) marked against a name shall constitute a vote for the person so designated.”

It is therefore manifest when a name is inserted that two acts are necessary, viz.:

I, to insert the name, and

II, to mark a cross.

Who is there that will say what the intention of a voter was that did one, and not the other? Is there any way in which his intent can be shown? What happened between the two acts? Why did he do one and not the other? Under the circumstances isn't it a matter of conjecture pure and simple as to what was the voter's intent?

The case of *Ray v. Ashland*, 221 Mass., 223, cited in contestant's brief, is not identical with this case. In *Ray v. Ashland* the question of the failure of the voter to mark the cross was not considered nor decided. The question there was whether the voter was confined to a particular space to place his paster, the stickers being pasted over the printed name on the ballot and on in the blank space, and the votes were counted for the paster candidate when crossed.

The court held that it was not a mandatory provision of the statute that required the placing of a sticker in the blank space.

In this case the court said, on page 225,

"We find no express provision, prohibiting the voter if he chooses such mode of expressing his right, from placing a written or printed slip bearing the name of another person over the name of a candidate, and voting for that person by making a cross in the appropriate blank opposite the name."

This can only be construed to mean that the vote was registered by making the cross, and the vote was not completed until such cross was made.

The failure to place a cross against the paster leaves

too much to conjecture, and on this point the courts have consistently held that if the intent of the voter is left to mere conjecture it can not be counted.

O'Connell v. Matthews, 177 Mass. 518.

Flanders v. Roberts, 195 Mass. 222.

In the case of Britt v. Weaver, 65th Congress, cited as a case in point, the Republican minority insisted that the cross was necessary when prescribed by statute. In this case the ballots contained only the name of the candidate for Congress, and the cross could be made before the voter went to the polling place. There being only one name on a ballot, it might easily have been decided that the depositing of a ballot constituted a vote.

But the Massachusetts ballot is a more complicated affair. The names of all candidates for public office are on the ballot, and the depositing of a ballot unmarked could only be counted a blank. The only way in which a vote can be counted is when a cross or other mark is placed opposite the name of a candidate.

In Britt v. Weaver the Republican members of Congress insisted that a cross was necessary on a ballot that contained only one name, when the statute prescribed it; that being so (with the same statutory requirement) it is positively indispensable on a ballot that contains the names of several candidates.

Voters Knew Cross (X) Was Necessary.

The contestant and the general public know that a cross is necessary against the name of the candidate in order to constitute a vote, as is shown by his pre-election speeches and extensive advertising.

See Exhibits 12, 13, 14, 15.

Exhibit 12 is a sample ballot, sent to all the voters in the district, with the following statements, "be sure and mark the cross X where this hand points (indicating space beside name P. F. T.) after you put the sticker on."

"Be sure and stick the sticker where this hand points. Then mark a cross at the right with your pencil."

"If you rather not use a sticker write the words Peter F. Tague of Boston where the sticker should be put and make a cross at the right."

These are all written in red ink and in large letters. Exhibit 13 is a circular letter with these words,

"My name will not be printed on the ballot, and so you must use a sticker or write my name on the ballot, and mark a cross X with your pencil to vote for me. I am sending you stickers and a sample ballot showing how and where to vote. Remember if you don't want to use a sticker you can write the words Peter F. Tague of Boston in the space left for the sticker in the congressional column, but be sure and mark a cross with your pencil at the right of the sticker or name."

Exhibit 14 is a circular letter to all the voters in the district with the following instructions:

"I am sending to you enclosed a sample ballot and stickers with complete instructions how and where to place the stickers or write the name and mark the cross X.

Above all things remember that after the sticker is pasted on or name written in, it is necessary to mark a cross X at the right with your pencil. I know that the voters of the 10th district are intelligent enough to place a sticker in the right place and mark the ballot properly."

Exhibit 15 is an advertisement in the **Boston Post** which claims to have the largest circulation of any morning newspaper. It is headed,

“How to Use Stickers and Vote for Tague.

To vote for Tague for Congress, you may either write his name ‘Peter F. Tague, Boston, Mass.,’ on the ballot **and mark a cross alongside**, or you can use a sticker. In using a sticker, simply moisten the gummed side and stick it on the ballot. Then mark a cross alongside. **Don’t forget to place the cross alongside, otherwise your vote will be wasted.”**

In Massachusetts it has always been understood that a cross X or some other mark is necessary in the space opposite the name of a candidate in order to constitute a vote.

See opinion of Attorney-General Pillsbury, quoted above.

This has been followed in Massachusetts, and has been accepted generally, without question.

Contestant has cited the cases of

Frederick v. Wilson, 48th Congress, and Greevey v. Skull, 52nd Congress, but in neither of these cases was there a statute prescribing a cross to be made to indicate the choice of the voter.

Written Ballots.

There is no evidence before your committee that the contestant was not credited with all ballots on which the contestant’s name was written, regardless of spelling, which were crossed as prescribed by statute. Mere unsupported allegations are not evidence.

Your contestee asserts that contestant was credited with every one of these ballots. In a very few cases some

ballots containing the name of contestant written in were not counted, because of the failure of the voter to mark a cross. To these ballots the same principle must apply as to stickers, viz., the necessity of a cross opposite the name in order to constitute a valid vote.

Alleged Use of Fraudulent Stickers.

A sticker without gum was introduced by contestant, as an exhibit, and it was claimed that it was only one of many that were distributed to defraud him. This feature of the case is argued at great length, but there is positively not the slightest evidence to show that any of these stickers were used.

Mr. Tague had workers at each of the 50 voting precincts in this district, there were six election officers at each precinct, at least two and sometimes four police officers at each precinct, and not one witness was produced to show that any fraudulent sticker was used.

Your contestee asks that the evidence of Dennis F. O'Neil, William A. Murray, and others be rejected because it is hearsay evidence. It was properly and seasonably objected to and would not have been admitted or considered in any court of law.

It is stated in the case of *Ingersoll vs. Naylor* that,

“The rule upon which the committee reject all hearsay evidence they conceive too well settled and too clear and just to require any argument. If all experience has shown, that in the administration of justice in the most petty and trifling matters between man and man there is no security for truth without the sanction of an oath, every one must admit that in a controversy which enlists the strongest passions of our nature, often stimulated by ambition and partisan prejudice and animosity, we can not safely dispense

with this great security. If evidence of this character were received, it might be manufactured with impunity to any amount, and no representative would be secure of his seat for a single day."

"Hearsay evidence should not be considered."

Donnelly vs. Washburn, 46th; 1 Ells., 472; Rowell, 699.

"The vicious tendency of hearsay evidence in election cases needs no demonstration."

Wallace vs. McKinley, 48th Congress, Mobley, 189; Rowell, 699.

"Statements and declarations of other persons and conclusions of witnesses from these statements and declarations, should be regarded as hearsay, and inadmissible for any purpose."

Hurd vs. Romeis, 49th Congress, Mobley, 425; Rowell, 699.

Although we maintain that all the evidence on the use of these alleged fraudulent stickers is inadmissible and should be disregarded by the committee, yet we can not allow to go unchallenged the statement of contestant that these were used so that there were $7\frac{1}{2}\%$ blanks in this district for office of representative in Congress and about $2\frac{1}{2}\%$ blanks for other offices.

This statement is absolutely untrue, and these percentages are imaginary and have no basis in fact. As a matter of fact, there were 794 blanks in this district which was $5\frac{1}{10}\%$ of votes cast.

In the 11th and 12th districts, the other two Boston congressional districts, there were 1,168 and 1,518 blanks, and these blanks are $4\frac{9}{10}\%$ and $5\frac{6}{10}\%$ of the votes cast in these districts, respectively. These figures and percentages indicate that there was no extraordinary number of blank ballots in the 10th district.

It might be added that the percentage of blanks is not so striking in the 10th district as in the others, because the number of blanks in the contest for governor cast in the 10th district is much higher than in the 11th and 12th districts.

Blanks for Governor.

10th Congressional District, 665 blanks 4 3/10%.

11th Congressional District, 391 blanks, 1 6/10%.

12th Congressional District, 409 blanks, 1 1/2%.

When you consider that 4 3/10% of the voters in the 10th district did not vote for governor, it is most surprising that there is not a greater percentage of blank votes for Congress, because the Socialists who had no candidate for Congress cast 2 4/10% of the total vote in the district, and it is fair to assume that many of them did not vote for the candidates for Congress of a different party.

In the 11th and 12th Congressional Districts the number of blanks for Governor at this election was 1 6/10% and 1 5/10%, respectively. In these two districts there was a far greater difference in the number of blanks cast for Congress and cast for Governor than in the 10th district.

The greater number of blanks in a Congressional contest, as compared with election for Governor is due to a natural falling off of votes in all the contests placed lower on the ballot. (See election report.)

That there was a smaller falling off in the 10th district than in the others, is pretty good evidence that there were no blanks because of fraudulent stickers.

No ballot showing that a sticker had been pasted on and had fallen off had been produced. There were some ballots without any mark of any sort. These are blank because voters for lack of interest or some other reason failed to mark them. There is no greater percentage in

this district than in others, and this is only a specious argument advanced by the contestant.

Alleged Fraud.

Use of Money in Election.

Contestant states that he was offered two years' salary. This was made in a faltering and mealy-mouthed way and it carried little conviction of truth.

It was made after counsel for contestee had objected because there was no allegation of any such thing in the specifications, pages 10 and 11, report of testimony, and this evidence should be rejected.

"The rule that a party is bound by his pleadings and is limited in his proof to the issues therein advanced, has been recognized and insisted on in contested congressional election cases. Depositions in regard to issues not raised in the notice of contest have been held to be inadmissible."

Stobell vs. Cabell, 47th Congress, 2 Ells., 668.

"Objection having been made by contestee to evidence on points not put in issue by contestant's notice the evidence was rejected."

Boyd vs. Kelso.

Hind's Precedents, Vol. 2, Sec. 855.

There is some testimony to the effect that a former representative said he had received \$1,000 to help contestee in election. This was denied by the man himself, but an alleged conversation of his with witnesses Green and Giblin, was introduced in evidence, pages 330-332.

The contestee asks that their testimony be excluded, because it is hearsay, and because contestant made no such allegation in his notice of contest.

See cases on hearsay cited above.

See cases on notice of contest cited above.

The only other testimony of money is by witness Giblin, and it is so ridiculous that it needs no comment. There is positively not the slightest evidence of the unlawful use of money in this case.

An allegation as serious as this should be supported by some evidence. The failure to produce any evidence proves the insincerity of the claims of contestant, and a desire to smirch a man's reputation without reason. Certainly there was no need on the part of contestee to deny such absurd statements, that had no basis in fact, and were made by disgruntled and irresponsible persons.

Alleged Coercion and Intimidation.

Contestant calls attention to the evidence of John Gibbons, Thomas J. Glynn, James J. McCarthy and Abraham E. Halpern, to show that coercion and intimidation was used at this election. All of these men with the exception of Halpern were watchers for the contestant and are naturally prejudiced, yet one can not read their testimony without believing that nothing happened except what would happen at the polling places of any election district in a spirited election contest.

Glynn and McCarthy were complete strangers in the district challenging voters whom they did not know for alleged illegal registration. They were challenging from lists compiled by Gibbons, who had made no thorough investigation as to registration. They were challenging indiscriminately and recklessly, and it is no wonder that some voters resented this.

Gibbons was one of Tague's staunchest supports and a bitter local opponent of Mr. Lomasney. His testimony was more than likely colored by prejudice, and this being so, let us look at his testimony on page 131:

“Q. What did it consist of? (referring to intimidation)? A. Having these men ask for Democratic assistance and also stopping them and giving them Martin Lomasney’s sample ballot.

Q. And that you regard as intimidation? A. That is intimidation.

Q. All that was done was that somebody accosted a voter? Didn’t stop them physically? A. Yes.

Q. Grab hold of them? A. Yes.

Q. How? A. Grab them by the arm: ‘Come over here a minute.’

Q. In a friendly way? A. Yes.

Q. And says, ‘Here is a sample ballot. Will you vote this way?’ A. Yes.

Q. And the voter would pass on and go in and vote? A. Yes.

Q. Is that all that was done? A. Yes.

Q. And that is what you call intimidation? A. That was intimidation.

Q. That is what you call it? A. Yes; I call it that.”

And on page 130,

Q. Did you personally on the 1st day of April or at any other time between the 1st of April and the primary of last year go to the house where these men were registered to see whether or not they were legal and bona fide residents? A. I did not go to the houses.”

There are about 22,000 legal voters in this district, of which over 15,000 voted at this election and the one witness that the contestant produces to shown intimidation is Halpern, and it is shown on cross-examination that Halpern is not a voter, and that he got into some kind of dispute in a ward several miles from where he lived.

Not one legal voter has been produced to testify that he was coerced or intimidated, nor has there been produced

the name of any voter, who by direct evidence, or even hearsay, was claimed to have been coerced or intimidated.

On such serious charges as these direct, substantial, positive, and accurate evidence should be produced in order that a Congressional Committee should consider it. In the assistance to voters there is not the slightest suggestion of illegality. Everything was done according to law. There are 12 or 13 votes that were marked as having been assisted. It has not been shown for whom these votes were cast, or intimated that they were not marked as requested by the voter.

In this direction it has been held that even when assistance by election officers was given to voters who had not made the required affidavit as to their ignorance of the English language or their physical disability that will not of itself vitiate their votes.

Carney vs. Smith, 63d Congress, Moore, page 98.

There are 12 challenged votes, that have been marked as exhibits, but it has not been shown that these were counted for the contestee, nor has it been shown that they were lawfully challenged or cast illegally.

The whole case of the contestant on alleged fraud, intimidation, and illegal registration depends upon testimony of the contestant and a few of his henchmen. There is absolutely no corroboration, and not the slightest evidence by any disinterested persons.

It is obvious that this evidence is colored by partisan prejudice, and is not the kind of evidence that should be relied upon to make any change in such an important office.

Mr. Tague's Treacherous Memory or Perjury.

At this time we particularly call attention to Contestee's Exhibit 10, in reference to the testimony of Mr. Tague. The subject-matter of the letter may not be in issue, and

your committee may disregard it, but the date as well as the friendly tone of the letter are most important, taken in connection with contestant's testimony that in April, 1917, Mr. Lomasney threatened him and told him he would never go back to Congress. (See page 69, Tague's testimony.)

“(Peter F. Tague, Tenth District, Massachusetts, Joseph F. Kane, Secretary.)

House of Representatives,

Washington, D. C., March 28, 1918.

Hon. Martin M. Lomasney,

11-A Green Street, Boston, Mass.

Dear Martin: Last week I wrote you a note asking you to give me at once the name of the contractor who I could use on this building, which is about to begin. When I was in Boston, you told me that you would get the same and send it to me at once, and as the building of all the cantonments and housing propositions are under way, and I have an opportunity of getting in on them, I would be pleased if you would give me this at once.

With best wishes, I am

Very sincerely yours, ‘Peter.’ ”

If Mr. Lomasney threatened the contestant with defeat in the spring of 1917, it is very singular that he should be writing such a friendly letter to Mr. Lomasney on March 28, 1918, with the salutation of “Dear Martin,” and signed familiarly “Peter.”

The significance of this letter is the date, and the intimate way in which it is written. It is a direct contradiction to the contestant's other testimony. **Either Mr. Tague is not truthful or he has a very treacherous memory, and this must be considered in weighing the rest of his evidence.**

Illegal Registration.

The contestant in his brief (p. 27) practically admits that he has not proved his allegation of illegal registration. He claims, however, that because his unsubstantiated allegations were not answered by the persons involved he is excused from proving them. This position is unsound for the reasons:

First: The burden of proof is on the contestant.

Second: There is a presumption that the certified voting lists are correct and in compliance with law.

It is a strange doctrine that the burden of proof shifts because mere allegations unsupported by proper evidence are made, and certainly it would not be followed in any court of law.

Contestant attacks the right of many persons to vote where listed and registered in this district, claiming that they have no legal domicile there. This comes with poor grace from the contestant who had an illegally registered voter from his own house (see testimony of Goggins), and also from the house of his mother (see testimony of Miss Tague and Mr. Turnbull).

Every man must have a domicile. It is undisputed that he has the right to choose his domicile. In the case of men having several homes, they have the right to choose any one of them as their domicile. In the case of men moving from place to place, it is clearly their right to choose their domicile, and the question of domicile is a question of intent.

Ward 5 comprises nearly the entire business section of Boston, with its great hotels, docks and wharves, great banks and warehouses, the two great railroad terminals of Boston, City Hall and County Courts. It has a highly diversified population in which are represented all of

the European countries and many others. There are many small hotels and many lodging houses. There are a great many places where men live only for a short while and move from place to place. There are many unfortunate men, who are compelled by force of circumstances to live in these cheap places, but who have the right to a domicile and the right to vote. These men can not be disfranchised because they happen to live in a different house or on a different street at election time than they did at the time they were police listed.

All the voters, but one, examined to prove illegal registration, were clearly shown to be bona fide voters of the district. The one exception was Finklestein who said that he lived in another district, but was registered in Ward 5.

The evidence of his fraudulent registration was given so willingly that it must be viewed with more or less suspicion. But though he admitted that he lived in another district, it was not shown that he went there at the request of contestee or any of his friends.

All the other witnesses called testified that they were actual residents on the 1st of April, when the police listing was taken, and that they lived where listed and that these places were their domiciles.

In Boston, men, in order to vote at elections, must be listed where they reside the first week of April. If they are so listed they have the right to vote from such residence if qualified and later registered. (See Sec. 14, Chap. 835, Acts of 1914.)

All of the witnesses called stated that they were listed and registered in Ward 5 where they lived, and nowhere else. Now, if these men live there intending that it shall be their domicile, they can not be listed elsewhere, and without listing they would not be entitled to vote elsewhere, and would therefore be disfranchised.

"Section 69. In Boston there shall be a listing board composed of the police commissioner of said city and one member of the board of election commissioners * * *.

Section 70. The listing board shall, within the first seven week days of April in each year, by itself or by police officers subject to the jurisdiction of the police commissioner, visit every building in said city, and after diligent inquiry make true lists, arranged by streets, wards and voting precincts, and containing as nearly as the board can ascertain, the name, age, occupation and residence on the first day of April in the current year, and the residence on the first day of April in the preceding year, of every male person, twenty years of age or upwards, who is not a pauper in a public institution, residing in said city. Said board shall designate in such lists all buildings used as residences by such male persons, in their order on the street where they are located, by giving the number or other definite description of every such building so that it can be readily identified, and shall place opposite the number or other description of every such building the name, age and occupation of every such male person residing therein on the first day of April in the current year, and his residence on the first day of April in the preceding year * * *.

The board shall place in the lists made by it, opposite the name of every such male person or woman voter, the name of the inmate, owner or occupant of the building, or the name and residence of any other person, who gives the information relating to such male person or woman voter. * * *"

Chap. 835, Listing and Registration of Voters in Boston.

"A strict rule should be applied in the definition of the terms 'residence' and 'domicile' where the rights of property, the law of descent and distribution, or the law of the duty of the citizen or the subject to his

Government are involved. But in regard to suffrage the strictness of the rule should not apply in our Government."

Le Moyne vs. Farwell, 44th Congress. Smith, 415.

As shown above in the statute, the name of the informant must be given to the police, so that this evidence was available to show whether or not these men were bona fide residents.

In order for this committee to decide that there was illegal registration so as to invalidate any of contestee's votes it must be shown either that the men charged were acting in conjunction with the contestee or his friends in fraudulent registration or that the informant or landlord were doing same. This was not shown in any case.

Having failed to properly prove this the contestant, over contestee's objection, read from a prepared list the names of persons alleged to be the same persons registered in Ward 5 and alleged to be residents of other districts in other parts of the city, or in Boston suburbs.

This evidence was gathered by investigators, whose names the contestant would not divulge, and which was not sworn to. He refused to allow contestee's counsel to examine the reports from which he was reading.

All of this evidence comes within the objection of hearsay evidence cited before, and in Whyte vs. Harris, 35th Congress, 1 Bart. 257-267, where a like situation arose, it is there said that

"Where the evidence as to the number of illegal or intimidated votes consisted of lists made by persons hired to canvass the neighborhoods, whose information was hearsay, often several times removed, and whose lists were not always sworn to by the men who made them, the committee was unanimous in disregarding the testimony."

Therefore, your contestee asks that all this testimony by Mr. Tague be excluded.

**Contestant Failed to Avail Himself of Opportunities
Guaranteed by Laws of Massachusetts.**

We desire to call the attention of the committee to the fact that the contestant filed a petition with the election commission of Boston for the purpose of removing names from the voting list according to statute. Sec. 52 of Chap. 835 of the Acts of 1913 provides that,

“If a registered voter complains to the registrars or election commissioners, in writing under oath in a city fourteen days at least, or in a town four days at least, before an election or town meeting, that the complainant has reason to believe and does believe that a certain person by him therein named has been illegally or incorrectly registered, and setting forth the reasons for such belief, the registrars or election commissioners shall examine into such complaint, and if satisfied that there is sufficient ground therefor, they shall summon the person complained of to appear before them at a certain place and time before the next election or town meeting to answer to the matters set forth in the complaint, and the substance of the complaint and a copy of this and the following section shall be set forth in the summons * * *.”

Although this petition was filed and the election board was ready to give a hearing and so notified contestant and his counsel, contestant failed to appear and produce any evidence (see testimony of Commissioners Burlen and Wasserman), although under this statute, Sec. 53, it is provided,

“That if a person complained of as an illegal voter does not appear when summoned, the complainant shall produce sufficient testimony to make out a *prima facie* case, and if this is done the name of the person complained of shall be stricken from the register.”

Following is the entry in the record book of the election commission (contestee's Ex. 15).

“In Board

Nov. 4, 1918.

All Present.

Complaint of Peter F. Tague against two hundred and three (203) registered voters of the city of Boston was filed with the Election Commissioners on October 22, 1918, at 4.55 p.m. in accordance with Sec. 52 of Chap. 835 of the Acts of 1913.

The Board, under date of October 24, 1918, notified Hon. Peter F. Tague and his counsel, Hon. Joseph F. O'Connell, by letter, a copy of which may be found in office copy book at page 423, that they had set 2.30 p.m., October 24, 1918, to examine into such complaints, and received reply from Mr. O'Connell on October 24, 1918, that it would be impossible for him to appear—see his letter on file.

The Board further notified Mr. Tague and Mr. O'Connell verbally twice that it was ready to hear them on their complaint, and up to this date they have failed to appear. The Board therefore has examined into the complaint as required under the provisions of Sec. 52 of said Chap. 835 and have

Voted that no summons be issued in accordance with entry on the docket.

The Board found that the persons complained of were either on the voting list of 1917 and carried to the 1918 list by the return of the Listing Board which showed them to be April 1st residents, or they appeared before the Board and were supplementary listed and registered according to law.”

While it is conceded that Congress has the right to consider this evidence, it should give great weight to contestant's failure to take advantage of the laws of the Commonwealth of Massachusetts relative thereto. In a court of law his failure to take advantage of the means provided by statute would be a bar to any further proceeding.

The contestant had other remedies provided by the laws of Massachusetts, which would have permitted him to have had all matters pertaining to the election completely investigated and decided. (See Laws of Massachusetts, Acts of 1913, Chap. 835.) If not satisfied with recount of Election Commission he could have had another recount before the Governor and his Council.

By a writ of mandamus, the whole case could have been brought before the Supreme Court of Massachusetts and every question in dispute decided. Contestant had also the opportunity for the most searching investigation by inquest on all issues. Contestee concedes the right to pass over all these tribunals, but had the contestant submitted evidence of alleged fraud, intimidation and illegal registration before these several tribunals at the proper time, there would now be before the committee clear and distinct issues, and not the vague, uncertain, and confused issues as at present. Also there would be decisions that would be of invaluable assistance to a Congressional Committee.

Concluding Argument.

In conclusion the contestee submits that the whole case of the contestant rests on allegations and assertions, with no substantial proof; and that he has made many misrepresentations of fact and statements unjustified by the testimony submitted to this committee.

As the case stands the contestee has a plurality of 238 votes. The recount of the Boston Election Commission should be sustained because there has been presented no competent evidence to overturn the presumption that their final count was correct.

Of this same Election Board, a Congressional Committee said,

“It must be borne in mind that the certificate of election is not based on the first return of the election inspectors, but is based on the unanimous finding of bi-partisan recount boards whose character and experience warrant the assumption that they were well qualified for the duties of their positions, and that their experience and familiarity in the counting of ballots justifies the belief that they are specially well qualified to make a correct count of the ballots. Certainly their return should stand until invalidated by proof.”

Galvin vs. O'Connell, 61st Congress. Moore's Dig. page 40.

In all the evidence before this committee there is only one case of illegal registration proven. In this instance, however, there is no evidence for whom he voted. There are twelve challenged votes without competent evidence to support the challenges, and twelve ballots where assistance was properly and lawfully given by election officials. There is absolutely no evidence in the record to show how these votes were cast, and further, the committee cannot assume that these votes were cast for the contestee.

There has not been shown any such coercion or intimidation or illegal voting at any precinct to warrant the rejection of the votes of that precinct. There is not the slightest evidence of the intimidation of any legal voter.

If the committee believes that the contestant has shown any cases of illegal registration, it must further be proved that these illegal votes were cast for the contestee, or that the contestee was responsible for this illegal registration and voting.

We submit that there is no evidence that contestee was responsible for any illegal registration, or that he benefited from such if any existed; that the whole evidence is vague and indefinite, in most cases hearsay, and not the kind of evidence that would be considered by any court of law, or has heretofore been considered by any Congressional Committee.

The contestee should be sustained by this committee, because the contestant has not sustained the burden of proof which was imposed upon him to satisfy it that there was fraud, error or wrongdoing in the primary, election, count, or recount.

Respectfully submitted,

JOHN P. FEENEY,
TIMOTHY F. CALLAHAN,
VINCENT BROGNA,
Attorneys for Contestee.

CONTESTED-ELECTION CASE OF TAGUE v. FITZGERALD

HEARINGS

BEFORE THE

U. S. Congress House

COMMITTEE ON ELECTIONS NO. 2

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

FIRST SESSION

ON THE

CONTESTED-ELECTION CASE OF

PETER F. TAGUE v. JOHN F. FITZGERALD

FROM THE TENTH DISTRICT OF THE STATE OF MASSACHUSETTS

FRIDAY, AUGUST 29, 1919



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

copy 2

John F. Tague v. John F. Fitzgerald
CONTESTED ELECTION CASE OF PETER F. TAGUE v. JOHN F. FITZGERALD (TENTH MASSACHUSETTS DISTRICT).

COMMITTEE ON ELECTIONS No. 2,
HOUSE OF REPRESENTATIVES.

Friday, August 29, 1919.

The committee met at 10.25 o'clock a. m., Hon. Louis B. Goodall (chairman) presiding.

Present: Messrs. Lehlbach, Elston, Rhodes, Overstreet, and McGlennon.

The CHAIRMAN, Mr. O'Connell, attorney for Mr. Tague, has one hour for his opening statement, and we will hear him now.

STATEMENT OF MR. JOSEPH F. O'CONNELL, ATTORNEY FOR
CONTESTANT.

Mr. J. F. O'CONNELL. Mr. Chairman and gentlemen of the committee, the contestant in this case, Mr. Peter F. Tague, a former Member of Congress, asks you to find that he was the duly elected Member to sit in this Congress from the tenth Massachusetts district. He maintains that he was the duly nominated candidate at the Democratic primaries in September of last year and was deprived of the Democratic nomination by gross fraud, irregularities, and injustice, which we shall point out to you more at length; and that at the election, where a political phenomena took place, he actually was elected and should be seated. It is well, probably, that I should go over the salient facts of the case as set forth in our brief in the statement of the case.

Mr. LEHLBACH. May I ask a question right there?

Mr. J. F. O'CONNELL. Yes, sir.

Mr. LEHLBACH. Is it the contention of the contestant, assuming that he was rightfully entitled to be the party nominee in the primary contest, that as a result of such nomination he would have been elected in the general election?

Mr. J. F. O'CONNELL. Absolutely.

Mr. LEHLBACH. I want to get that on the record.

Mr. J. F. O'CONNELL. Our contention on that point is based on the decision in the case of Grace v. Whaley, showing the right of the committee to take up that feature of the case, and it is set forth on page 19 of our brief, the reference being Grace v. Whaley, Sixty-third Congress, Moore's Digest, page 11. In order to emphasize our right in that connection, gentlemen, I will call your attention to the fact that the tenth Massachusetts district is an overwhelmingly Democratic district; whoever would have the Democratic nomination would certainly win, as was demonstrated in this case, because there

was a Republican candidate running on the ticket, and in spite of the fact that Mr. Fitzgerald was designated as the regular Democratic nominee and Mr. Tague had to run on stickers, both of them got more than seven times as many votes as the Republican candidate, so that it is clear that whoever had the Democratic nomination would unquestionably win unless some great fraud had been perpetrated, as was the case here.

Here we have a tremendous fraud, which awakened the people of the district and permitted a situation to arise which discloses, as I said, a political phenomenon, where a man could in four days have stickers printed and distributed in a metropolitan district, where an intricate election law had to be complied with, and where, as a matter of fact, more stickers were placed correctly on the ballots and designated for Mr. Tague than there were ballots cast for the regular nominee, Mr. Fitzgerald, sowing the depth of feeling that existed in the district against the tremendous fraud that had been perpetrated at the primary.

Now, in order to give you some idea of what the situation was in Boston last year, I am going to ask you to bear with me for a few minutes so that I may describe the district. Mr. Fitzgerald, the present incumbent, had lived in this district many years ago, but on account of its cosmopolitan character had moved out into the selecter circles of Dorchester, and from that select atmosphere he had been twice elected mayor of Boston, and for some reason or other got the idea, through the political boss of the district, that he should be the candidate in this district for Congress.

We will show you that this district is one of the very few political boss-ridden districts in this country. The day of the political boss, as he was known in some of the great cities of the country in the last 30 or 40 years, has gradually passed, but in Boston, a little slower to respond to some of the political reforms, we have some of the old evils left. We have a district where one man, Mr. Martin M. Lomasney, is the complete autocratic boss. The character of his complete domination of the district is found in his testimony, wherein he says, in one of the pages of his testimony, "I looked the district over and I chose Mr. Fitzgerald, and I got Mr. Fitzgerald to run and Mr. Fitzgerald ran." That is the whole story from the beginning to the end.

Mr. BROGNA. I do not like to interrupt, but that is not the evidence.

Mr. J. F. O'CONNELL. I have it here and I will give it to the committee right away; that is the best way. On page 441 Mr. Lomasney said, after describing how he had eliminated Mr. Tague and decided that he would not have Mr. Tague run:

I talked with John F. Fitzgerald that I laid down on Tague, and he finally accepted the proposition to run.

Mr. BROGNA. That is not what was said.

Mr. J. F. O'CONNELL. I think I have conveyed to the committee exactly what it was, and this committee is not going to be influenced by any misstatement of the testimony by me or by you. I hope you will not do it and I certainly will not try to do it.

This district is composed in ward 5 of a very congested population. There are a great number of cheap bar rooms, dives, bawdyhouses,

and hotels, designated as such simply to cover the excise license laws of Boston. In these houses men were housed, ostensibly in order that they might vote. The testimony of the character of these hotels is brought forth in the testimony of Mr. Tague, wherein it is shown that the War Department and the Navy Department during the war made most of these places territory into which men and officers could not go on account of the immorality which prevailed there. A notorious one, the Revere House, of Boston, has been found to be a public bawdyhouse and has been restrained and ordered closed, and stands as a monument to the manner and kind of houses in the district.

Mr. LEHLBACH. Is the North Station in that district?

Mr. J. F. O'CONNELL. The North Station is in that district.

Mr. BORGNA. And the South Station, too.

Mr. J. F. O'CONNELL. You called attention to the North Station, Mr. Lehlbach, and I want to call your attention to a little building that is right opposite North Station. You have probably noticed it, Mr. Chairman, when you came in from the Maine train. It is called familiarly in Boston the "Louse House."

The CHAIRMAN. It is rather suggestive.

Mr. J. F. O'CONNELL. It is referred to in the testimony of Mr. Peak, who described it on page 404. The number of the so-called "Louse House" is No. 19 Causeway Street. There is a photograph of it among the exhibits, and I am going to call your particular attention to this house as a sample of what prevails in the district. Exhibit No. 59 shows the third floor of No. 19 Causeway Street. Exhibit No. 60 is a photograph of the entrance. Exhibit No. 61 is a photograph showing the office and the dormitory. This is the house at which thirty-odd men voted. There was a single room, not any larger than this small committee room, and into that small room there are supposed to live thirty-odd men that our records show voted at the Democratic primary and at the Democratic election in that particular precinct.

Mr. BORGNA. We do not assent to the size of the room.

Mr. J. F. O'CONNELL. The room is described in Mr. Peak's testimony, and some of the committee have seen the description of the room. It is on pages 401 and 402 in the testimony of Mr. Peak. The Hotel Lucerne, Merrill House, Piscopo's Place, Quincy House, Crawford House, are all places given as the residence of men so that they might vote. The district is composed of a great number of liquor saloons, and according to the excise laws of Massachusetts, in order to get a license in Boston a man must be a resident of Boston. In order to evade or get around that law, men who lived in Brookline, Newton, Summerville, Dorchester, Chelsea, and in other parts of Boston had somebody give their names in from these particular hotels. We show the illegal registration of liquor dealers and bartenders on pages 282, 271, 272, 203, 358, 165 and I give you the whole list of names.

Mr. ELSTON. You do not contend that those illegal residences were for any other purpose than to evade the excise law, and not for the purpose of voting in this election; or do you carry it that far?

Mr. J. F. O'CONNELL. Yes, sir.

Mr. ELSTON. There are two purposes for these illegal residences, then?

Mr. J. F. O'CONNELL. Yes, sir; and in order to win the good will of the boss of the ward those men naturally voted according to the dictates of the organization.

Mr. BROGNA. There is no evidence of that.

Mr. J. F. O'CONNELL. I beg your pardon; it is all there. The ward is under the domination of Martin M. Lomasney, who runs the Hendricks Club, who was summoned to the hearing, and when he came he presented an attitude of extreme contempt for this committee, for the national laws, and for our people. We had a hearing in the United States court room in Boston, and this boss, with all the brutality of a boss, came into that court room, forgetting all the dignity of this great Government, took off his coat, and wearing a gray sweater, for three days abused and maligned everyone that his tongue could call to mind. He accused Mr. Mann in this House of having lost the Speakership because of an incident in reference to steaks (p. 457). That is on pages 457, 417, 459. He abused and disregarded the rights of everybody, insulting everybody. He has the district completely under his domination, and these liquor dealers, these bartenders, to the number of several hundred, do whatever this man asks. Above and beyond that, we have this feature——

Mr. BROGNA (interposing). I would like to have you show that in the evidence.

Mr. J. F. O'CONNELL. I have the evidence of it. I call your attention to it on the pages enumerated. A number of city employees who live in other parts of Boston and elsewhere out of Boston also vote there and are members of this Hendricks Club which runs the ward. It is the political organization. To give you a fuller idea of how sweeping is the control of this man, he nominates and appoints the election officials not only for the Democratic Party but for the Republican Party, so that all the election machinery in this ward is in the hands of this one man through his appointment of the Republican and Democratic members.

Mr. OVERSTREET. Is that in the record?

Mr. J. F. O'CONNELL. That is in the record.

Mr. BROGNA. I would like to have you call attention to where it is in the record.

Mr. J. F. O'CONNELL. All right.

Mr. OVERSTREET. I did not mean to detain you to——

Mr. BROGNA. I might say that it may be in the record, but it is not evidence; it is a statement of Mr. O'Connell.

Mr. J. F. O'CONNELL. It is a statement from the secretary to Gov. McCall last year.

Mr. ELSTON. We will all read the testimony, Mr. O'Connell; but you have consumed nearly a half hour of your time and we want to get down to the real issue.

Mr. FITZGERALD. Yes; get down to the real issue; that is it.

Mr. J. F. O'CONNELL. These interruptions are the bane of the argument, of course, but I know they are necessary. Now, I have been giving you an idea of what the ward is and Mr. Lomasney's control of the whole machinery. When Mr. Tague asked for additional inspectors and appealed to the governor, the governor's secretary sent to Mr. Lomasney and asked him whom he should appoint, and when Mr. Tague protested against that the governor's office was too busy

to go further, so that not only did he have his regular machinery, but he had an additional machinery that was appointed, making it absolutely impossible for Mr. Tague to get any kind of a chance in the ward.

Now, the primary election took place under those conditions. Mr. Tague carried the district by a vote of 4,555 to 3,202 outside of that ward—you will find that on page 2 of our brief—but in ward 5 the vote was: Tague, 417; Fitzgerald, 1,820; indicating in figures the extent of the boss-ridden ward. Mr. Tague asked for a recount. It was unofficially reported that Mr. Tague had lost by 100 or more votes. There was a so-called recount before the election commissioners of the city of Boston. It was one of the most outrageous proceedings that ever took place before a supposedly impartial board. It was a board supposed to be composed of two Democrats and two Republicans. As a matter of fact, Mr. Lomasney was the man who suggested the appointment of the man Finigan and of Wasserman, the Republican member, and he had controlled both of the Democratic members before that. We will show you that during the hearing of the testimony one of the commissioners, Mr. Murphy, whenever a disputed question came up, would leave the room and walk out and consult Mr. Lomasney or his brother or Mr. John R. Fitzgerald, and then come back and decide what they told him to decide; that when Mr. Finigan, the other commissioner, was appealed to because of an apparent error that was made, and was told, "Mr. Finigan, you are wrong," he said, "I know I am wrong; I am glad I am wrong, and I will stay wrong."

Then, I call you attention to the testimony of Mr. Finigan. Time after time the hearing was postponed and delayed. We could not get to the courts; we could not get our rights. We wanted to know what protection was made for the ballots. Fifty ballots were missing. A search was made and they could not be found. We asked where they were, and we were told, "We won't tell you where they are," with the supposition that no man could go to the vaults except two men, one Republican and one Democrat. Yet later on at the hearing I saw Finigan leave the room, and when he came back I said, "Where were you, Mr. Finigan?" He said "I was at the vaults." "Where did you get the ballots?" "In the vaults." "How did you get them?" "I went there." "Who went there with you?" And then he stopped. He saw that I had him. This is all in the evidence. Those 50 ballots went. Nobody knows how they went or how they came back. They were found there later by the ballot-law commission. What is the inference? Here is a man who says, "I know I am wrong; I am glad I am wrong, and I will stay wrong." He is the man who had access to the vault, and he goes there.

The Republican commissioner is examined later on and asked, "Were you at the vault this afternoon?" "No; this morning." "When this morning?" "At 9 o'clock, when I threw back the lever." Conclusively proving that anybody could go there that wanted to go there. These are the men who tell you that their report is an impartial report, and my brother tells you that this is an impartial board, whose report should be received by this great body.

Now, we show you the record that they kept the return up until the last minute, preventing us from exercising our rights; we show

in the record that we did not get fair treatment from them; that we asked them according to our law to summon twenty-odd witnesses, and they forgot to summon them, for what reason we are not told. We asked them to continue the hearing to get the 20 witnesses, and they said "No." We gave them the money, under our law, to summon them, and they would not summon them. On the last day, when public opinion was running so high that men would not come in, they were told, "Unless these witnesses are produced we will find adversely to them," and the following day or two days later in walks Mr. Lomasney at the head of 45 witnesses, with powers of attorney from each and every one of them to be their representative. Then that committee, instead of allowing me to cross-examine them to find out whether they were the men they represented themselves to be, said, "We won't allow you to cross-examine." Is it a fair tribunal that in a close case forbids cross-examination of 45 witnesses?

Let me give you a sample of what was done. The witness called is John Smith, and the questions and answers run: "Are you John Smith?" "Yes." "Are you the John Smith that lives at No. 19 Causeway Street?" "Yes." "Are you the John Smith that voted at the primary?" "Yes." "Are you 45 years old?" "Yes." "All right." Then I would say: "Mr. Chairman, I would like to cross-examine." "You can not." "Well, I want to find out whether that is John Smith. I want to find out whether he has got his registration card, where he lived at the date of the registration in June, where he lived at the date of the primary election in September." "Well, you can not do it." Is any finding of that board right, that will not give me an opportunity to cross-examine those men? That is all in our evidence. It is all admitted by the chairman of the commission under examination by me later on. It is found in the testimony of Mr. Goodwin, Mr. Harrington, Mr. Tague. During that hearing assaults took place when our witnesses came to the statehouse. One of them was knocked up against a wall and his teeth were knocked into his face, and he came into the hearing room bleeding and showing evidence of the assault, but the commission took no notice of it. Is that an impartial commission whose findings we are to take as conclusive, final, impartial, and just?

Then, to make matters worse, they kept that hearing until the 29th of October; we finished our arguments on the 25th, and they held the hearing open for five days longer, and on the 29th they sent down a decision. To whom? To the public press. Four days before election; four civil days before election; four days in which this case could be tried; and we immediately inquired and found that by some arrangement between that board and the State printer the regular ballots were printed a week before that and were ready for distribution four days before the election. In other words, this commission evidently decided and arranged with the State printer to print the ballots, as they were going to find and withhold their decision until five days later in order to prevent Mr. Tague from making his campaign or going to the court. Now, you might say, "Why could you not go to the court?" The courts in Massachusetts have said time and time again that they will not interfere with election machinery when the ballot machinery is in operation. There was no chance to get a bill or an order or a notice, to get it heard, because Sunday was on top of us and election day was the following Tuesday.

Now, we come down to election day. On election day Mr. Tague had to run on stickers. I have some of them here.

Mr. OVERSTREET. Mr. O'Connell, the name could have been written on the ticket, and it was written on in a number of instances?

Mr. J. F. O'CONNELL. Oh, in a great number of instances it was.

Mr. OVERSTREET. Then, what was the purpose of having stickers if the name could be written on the ticket?

Mr. J. F. O'CONNELL. It was a metropolitan district. I do not know that there was any reason for it, except that was the best way to do it.

Mr. OVERSTREET. Inasmuch as the name was not printed on the ticket, you had to do something?

Mr. J. F. O'CONNELL. That is an old American way of doing.

Mr. OVERSTREET. It is new to me. I never heard of it until this case came up.

Mr. J. F. O'CONNELL. It is done in a great number of States. Now, I am going to ask you gentlemen to carefully note the type and the manner in which that sticker is made and the manner in which it is gummed. You will notice that on the back it is gummed. It is well gummed. It is well printed. It was very evident that public feeling was running very strong. Men were asking for stickers. Men were saying that they were going in to stop this fraud, to see that Boston would be saved. They were going in to do the right thing, and it was very apparent that Mr. Fitzgerald was going to be defeated on stickers alone. In the last days things had gotten to such fever heat on account of the wrong that had been done. Then the basest infamy that has ever been noted in the political annals of this country was perpetrated at the polls by Mr. Fitzgerald's representatives and managers. I ask you to look at this sticker [indicating]. You will notice that it has the same reading, but there is no gum on the back of it. Men would come to the polls asking for stickers, and Mr. Fitzgerald's friends, when they found that the men were asking for stickers, would hand them that.

Mr. BROGNA. Now, I would like to have the evidence——

Mr. J. F. O'CONNELL (interposing). I call your attention to the testimony of Mr. Mahoney, to the testimony of Mr. O'Neil, to the testimony of Mr. Murray, to the testimony of Mr. O'Brien, and to the testimony of the police officer, Underhill. I will give you the exact pages on that because naturally you may want to refer to it.

Mr. ELSTON. Are those referred to in the brief?

Mr. J. F. O'CONNELL. Yes, sir.

Mr. ELSTON. I do not think you need go into that now, if it is referred to in the brief.

Mr. OVERSTREET. I would like to ask about this second sticker. Does the evidence in the record show that these pseudo stickers were handed out by Mr. Fitzgerald's representatives?

Mr. J. F. O'CONNELL. Yes, sir; I have shown that fact, and that is a point I am glad you mention. We showed in the testimony that they were handed out by Mr. Hearn, Mr. Fitzgerald's representative in the legislature, Mr. Fitzgerald's representative in ward 2. Mr. Fitzgerald's manager in ward 2 was Mr. William Hearn. Mr. William Hearn is the man who admitted that he was doing it, and in the testimony you will see on page 212 where he said——

Mr. LEHLBACH (interposing). You can give us a reference to the record.

Mr. OVERSTREET. Why could you not give us a memorandum with references to the record to save time?

Mr. J. F. O'CONNELL. I have it here ready. Mr. Hearn said "I did that. Whenever a man asked for a Tague sticker we handed him one of these." What was the result? The man moistened it. He put it on. When the moisture was dried up they separated. Now, you know how they count ballots.

They take them up in blocks of 50, and they are counted first for one office and then for another. Then they are rearranged and folded and they go through many arrangements. Now, when the ballot is simply moistened no mark is left on it. However, in ward 2 and ward 1, where this thing prevailed particularly, there are any number of ballots showing that the cross had been put at a place below the regular candidates for Congress and in the designation and in the place where the sticker was usually put, indicating that many hundred voters had been grossly deceived by this basest of political infamy.

Mr. ELSTON. The law is that in addition to the sticker a cross should be put on the ballot?

Mr. J. F. O'CONNELL. Yes, sir.

The CHAIRMAN. I would like to ask if any of those loose stickers were found in the ballot boxes?

Mr. J. F. O'CONNELL. We did not find them until one or two days later, when we got these stickers. We had no access to the ballot boxes; they were in the possession of Mr. Fitzgerald's and Mr. Lomasney's friends.

Mr. ELSTON. I thought they would naturally be on the floor.

Mr. J. F. O'CONNELL. It is in Mr. Mahoney's testimony and in Mr. Tague's testimony.

The CHAIRMAN. I did not know but what they might have remained in the ballots.

Mr. LEHLBACH. I notice the first sticker has a box for the cross mark. I should think the box would be printed on the ballot and that would be superfluous. If it was marked on the sticker and the sticker came off, there would be no cross on the ballot, but if the box was on the ballot and the sticker came off the cross would be opposite the vacant space.

Mr. J. F. O'CONNELL. There were some picked up. I call your attention to the testimony of Mahoney on page 122 and the testimony of Underhill on page 121.

Mr. ELSTON. Is this sticker an exemplification that was gotten out by Mr. Tague?

Mr. J. F. O'CONNELL. Yes, sir; Mr. Tague had to do that in the last two or three days to educate the district.

Mr. LEHLBACH. It is not official?

Mr. J. F. O'CONNELL. No, sir. These men would take the so-called pseudosticker or false sticker and make a mark in the box on the ballot. There are 200 or more ballots showing some indication of a cross, but the paster had fallen off. It was one of the meanest, one of the most contemptible, one of the most despicable practices that was ever engaged in by any man.

Mr. ELSTON. Were there any other candidates for that office who used stickers?

Mr. J. F. O'CONNELL. No, sir.

Mr. ELSTON. Were the names of any other candidates written in?

Mr. J. F. O'CONNELL. No, sir.

Mr. ELSTON. At the election only Mr. Fitzgerald and Mr. Tague were candidates?

Mr. J. F. O'CONNELL. There was another Democrat, Mr. Fletcher, running under a Republican designation.

Mr. ELSTON. He had his name printed on the ballot?

Mr. J. F. O'CONNELL. Yes, sir.

Mr. ELSTON. So that you are assuming that the ballots with a cross but no sticker were for Tague because there was no other candidate before the public who could presumably have inserted his name by sticker, inasmuch as Mr. Tague was the only man who was voted for in that way?

Mr. J. F. O'CONNELL. Absolutely.

Mr. ELSTON. And inasmuch as the cross was put there, you say that Mr. Tague was entitled to the benefit of the cross?

Mr. J. F. O'CONNELL. Yes, sir.

Mr. LEHLBACH. The point that I am making is that the sticker includes in its make-up the box in which the cross goes, and therefore if the sticker fell off there would not necessarily be anything on the ballot to show, because the cross falls off with the sticker?

Mr. J. F. O'CONNELL. Yes, sir.

Mr. LEHLBACH. In other words, a man might have put a cross on the sticker?

Mr. J. F. O'CONNELL. Yes; but the stickers that came off did not have the box on them. That is where the finesse of this infamy took place. There is the ballot, there is the ungummed sticker, the man puts his cross on the ballot, the sticker comes off, and the thing is all done.

Mr. ELSTON. As a matter of fact, in the opening of the ballots was it shown that they did put the cross in the box on the sticker and not on the ballot itself?

Mr. J. F. O'CONNELL. Yes; on the gummed stickers.

Mr. ELSTON. I can see where they would naturally put the cross after the phony sticker, because there is no box on the phony sticker.

Mr. BROGNA. I beg your pardon. There is a box on the ballot.

Mr. ELSTON. I understand that, but there is no box on the sticker, except on the pasted stickers.

Mr. J. F. O'CONNELL. Here is one of the pasted stickers:

PETER F. TAGUE, of Boston..... (For Congressman 10th District)

Mr. LEHLBACH. Will you refer us to the testimony that shows the cross appeared opposite the blank space, and the number of such crosses?

Mr. J. F. O'CONNELL. Yes, sir; I have that all here, and I will be very glad indeed to furnish all this to you.

Mr. BROGNA. I will object to that, because that is not in evidence. He has a page there that he is going to submit, that is not evidence.

Mr. LEHLBACH. I assume it will refer us to the evidence.

Mr. BROGNA. I should think he could call attention to it immediately.

Mr. J. F. O'CONNELL. I certainly can. The testimony in reference to that is found, if that is what you would like to have now——

Mr. LEHLBACH (interposing). You can make a memorandum later.

Mr. J. F. O'CONNELL. I will furnish that later.

Mr. LEHLBACH. That is the essence of the case.

Mr. J. F. O'CONNELL. Now, let us come down to the conduct of the election in ward 5. We show you that there the election was conducted under the auspices of Mr. Lomasney. We show you that Mr. Glynn, a cripple on crutches, was forced out of the wardroom. We show you that Mr. Halpern was assaulted, and Mr. Labosky, and in what manner they were assaulted, in the testimony of Mr. Gibbons. Pat McNulty did not live in that ward; he lived in the Revere and was a member of a lodge of Elks, and a man can not become a member of a lodge of Elks unless he lives in the district or town where he becomes a member. He was one of Lomasney's lieutenants in ward 5. A man would show up and Mr. McNulty would say, "You want assistance, don't you?" and the man would have to say, "Yes," and Mr. McNulty would take the man and go inside and mark his ballot for him. We challenged 12 of these men because they did not live in the district, and then they saw that if that thing continued we would frustrate them and prevent a crime. Then they assaulted Gibbons and told him to get out, and they assaulted the other members and drove them out, so that Mr. Tague had no watcher there, and they were able to go through that process and no notes were made of it.

Now, Congress has said repeatedly that where infamy and coercion of that kind takes place, it is up to the defendant to come in here and explain it. It is up to Mr. Fitzgerald to tell this committee, through this evidence, why he permitted such practices in this ward, and not a word of defense has ever been brought in. Forty days he had to testify and explain away all these various charges of assault, of intimidation, of coercion, of irregularities, of illegal registration and illegal voting, and 40 days he remained silent and not a word will you find in the testimony of any defense against the charges that we bring in here in the form of evidence by the parties who testified.

Now then, during that primary, during that election, we have this feature. The war was then on. We show that at least 37 irregular situations were proven, where the names of boys who were at the front or elsewhere in the Army or Navy were voted on. They were so fair, Mr. Chairman, that the names of two boys of the Ninth Regiment of Massachusetts, what is known as the Fighting Ninth, the One hundred and first Regiment, who laid down their lives in July last year, were voted on, and they were voted on in the primary and in the election by those who had charge of it for the present holder of this seat, and although that testimony is in the record, there is not a word in the record to explain it away, not a word of defense, not a word of denial. They could have brought the election commissioners, they could have brought the policemen, they could have

brought the people, they could have brought everything if our charges were incorrect or false, but not one word of denial or contradiction in defense of these vicious practices with which they are charged, and of which they stand convicted, in the absence of denial or explanation.

MR. OVERSTREET. Does the record show that although they were voted on they voted for Mr. Fitzgerald; does it show that?

MR. O'CONNELL. Under the laws of Massachusetts we can not show how a man voted. Under the Australian system that is well laid down, and I refer you to the case of Shepard versus Sears, I think it is. I will call your attention to the report of contested election cases of the Senate and House of Representatives of the Commonwealth of Massachusetts, public document No. 37, at the top of page 64, the fourth ruling, which holds that under our present system of voting—the Australian ballot act—no outside evidence is admissible to show for whom an unchallenged voter cast his vote.

MR. CALLAHAN. It can be done by the ballot if it is challenged.

MR. O'CONNELL. I will take that right up in answer to that. You fought viciously and vigorously, with all your ability, to prevent us from seeing a single challenged ballot, and the record shows that we have not been able to see a single challenged ballot, and it was an unchallenged ballot, because they were voting on the name of a soldier, a dead man, and nobody knew it until after the dastardly deed was committed.

Another instance of how close it came home. The treasurer of the Hendricks Club is James M. Graham; the president of the Hendricks Club is James E. Freel. They both participated in the election as ward lieutenants. The son of James M. Graham was in the Navy; the son of James E. Freel was in France, also in the Navy. The names of both of those boys were voted on. Does not that bring it pretty close to the ward organization in charge of the ward, when the president of the Hendricks Club has the name of his son voted on and the treasurer of the Hendricks Club has the name of his son voted on, although both of them were in France, and although both of those men, Freel and Graham, were summoned to appear before the commission and tell about it, and although both of them were working in the city hall, as near as the Capitol is to this office, neither of them showed up and neither of them responded?

MR. MCGLENNON. Were Freel and Graham lieutenants for Tague or Fitzgerald?

MR. O'CONNELL. For Fitzgerald. They are members of the Hendricks Club, and the Hendricks Club is an organization that had charge of all the election machinery.

MR. ELSTON. I would like to have you state exactly what effect those ballots would bear on the election. Just get down to the crux of the proposition—as to how much this matter bears on the result and how much these direct irregularities would affect the result if passed on by the committee. I would like to get down to just where this thing centers.

THE CHAIRMAN. I would suggest that inasmuch as Mr. O'Connell has been interrupted quite a lot, that we give him a few minutes more.

MR. LEHLBACH. Yes, because there may be some questions we might want to ask.

Mr. FITZGERALD. Anything is agreeable to this side that is acceptable to this committee.

Mr. O'CONNELL. Here is a case which is very important to you as giving you an idea as to the honesty and the worth and the value of the contest that is being fought here. We summoned to the Federal building, when this committee was carried on under the precepts and mandates of Congress, about 500 witnesses to prove illegal registration and irregularities in that election. How many of them answered the precept which was your precept, gentlemen? Under the law laid down here it is provided how we shall get the evidence for you. We are told that the summons must be issued by a notary, that it must be served on the man, and a certain number of these men came in and testified and gave their depositions; but of 400 or 500 odd names, less than 50 showed up, and they live in Boston, and they were served by the deputy United States marshals, and they heard and read about it in the Boston papers, that had put aside even the war and the armistice and all the great questions, had crowded them off the front pages in favor of this case. It was the one notorious thing and they knew it was going on, and the returns of the marshal showed that they served the writs, and they served the summonses, and these men refused to come in, city employees and clerks of court, men of standing in the community, so-called, men who were the associates of the contestant. And even Michael Fitzgerald, the brother of the contestant, a police official in the city of Boston, got the summons by deputy United States marshal to come in and testify, and he refused to come in, and neglected to come in, and will not come in. What are you going to do in a case of such contempt, where there are 400 or more of them?

Then, after our 40 days had expired, Mr. Lomasney, the boss, goes on the stand, and a great piece de resistance is presented into the great Federal courtroom, and he marches all these men, or many of those who had been summoned—Mr. Guy there, Pat McNulty, Mr. Beatty, Mr. Gray, whom I turned around and pointed out as one of the men who would not come to testify, but who would come in to listen to their boss tell what he was going to do to everybody, including this congressional committee.

Is that the fair play that the American people expected? Of course, the election laws were written in a day long gone, when there was a different code of honor among the American people and when a great respect was held out for Congress and for the working of Congress, but since the building up of these boss organizations the boss is supreme; he is greater than the Congress of the United States, and an intimation or suggestion or tip from him that they do not need to go means that men will disregard a summons from your committee, issued through a notary in accordance with law, and will refrain from honoring it, because they think it might hurt the boss and his satellite. That is the story. They would not any of them come in, gentlemen, and the returns of the marshal show that they have contemptuously disregarded an effort to give you the evidence that would either convict them or make us lose our case.

Mr. OVERSTREET. Was there no way that you could force those men to come in by taking the proper proceedings?

Mr. O'CONNELL. Mr. Chairman, I regret to say there is not. I came and made a recommendation to your committee that this election law be modified or amended. We took it up, and Mr. Tague made a speech on the floor of the House calling attention to the inadequacy of the law. There is no way you can punish them. After the thing is all over we might go before the grand jury and bring a bill of complaint to recover the fee that we paid—the \$20 fee—that is all. I took the matter up with Judge Warden, of the Federal court, and he said, “I am helpless.” I took it up next with the district attorney and had him investigate the matter, and he said, “I am helpless; there is no way; obviously these people have been advised that they could disregard the law with impunity.” Who advised them? My conclusion is that it was an interested party. Who is the interested party? The contestee there in this case, acting through his boss. Why do I draw that conclusion? Because in the boss's testimony, Mr. Lomasney, on my cross-examination, I asked him: Do you know Mr. Cochran? Do you know Mr. Gray? Do you know Mr. Beatty? Do you know Mr. Grant? Do you know all these men who have been summoned and did not appear here? Yes. Are they members of your organization? Yes. Do you know them well? Yes. Do you see them frequently? Yes. Did you ask them to come here? I did not. That was their conduct, written and spoken in every possible way, and what can I do? The list of these who have been summoned is on pages 624 to 641.

Now, in answer to Mr. Overstreet's suggestion, let me say this. There is one feature before we get to that. Mr. Tague has shown you those sticker ballots. The election commissioners have counted, as having been correctly placed there, according to their ideas, 6,997 votes. We show you that, in addition to that, there were approximately 400 ballots where those stickers were put on, but the cross was not added.

Mr. ELSTON. I understand the paste stickers were put on and were on the ballots at the time they were counted, but were counted out because the cross was not put upon them indicating the identity of the candidate?

Mr. O'CONNELL. Exactly. We call attention to the character of the sticker. It says, you will note, “Peter F. Tague for Congressman, 10th District,” which designates what that sticker is. Of course, it is a well-known principle of common law, and it has been accepted and passed on by Congress, that when you do write in something, that that writing, if it is put in later, governs the printed matter. That is fundamental.

Mr. ELSTON. The sticker itself was printed matter?

Mr. O'CONNELL. I mean the printed matter in the document itself.

Mr. LEHLBACH. The sticker shows, I think, whom he intended to vote for.

Mr. O'CONNELL. I am glad you made that clear, because that is what I meant to say.

Mr. ELSTON. I understand that. That is very obvious.

Mr. O'CONNELL. We ask you to count those ballots, and we ask you to count them because they show what the voter wanted done. We ask you to say that when a man went to the trouble of taking a sticker like that, wetting the gum and placing it on the ballot,

placing it on himself, for instance, in ninety-nine times out of one hundred, right in the place where that cross is on that ballot, or placing it right near there, not voting for anybody else, that that man intended to vote for Peter F. Tague and for nobody else, and that those ballots should be counted for him, whether the cross is there or not. Now, it is the contention of the voter, and it has been the law of Massachusetts—

Mr. ELSTON. You have reference to the law, now, Mr. O'Connell?

Mr. O'CONNELL. Yes.

Mr. ELSTON. I think if that is in the brief, that is not a hard matter to understand and get at.

Mr. LEHLBACH. As I understand, the law of Massachusetts says that the vote shall not be counted unless the cross is there, and Congress is not bound by the law of Massachusetts.

Mr. ELSTON. That will be in the brief. That is not a matter that is very hard to explain. I would prefer that you go into something else.

Mr. OVERSTREET. I do not quite understand this. I have read over this testimony and brief before, Mr. O'Connell, but I do not understand that it appears in the record that 400 or any other number of votes could be identified as having been voted for Mr. Tague. I thought you said some large number, but not any specific number.

Mr. O'CONNELL. You will find that, Mr. Committeeman, on pages 180 to 197, 190 to 206, 258 to 270, and 288 to 295.

Mr. OVERSTREET. Whose testimony is that you are quoting?

Mr. O'CONNELL. It is designated in the ballot as to how it is. For instance, let me read it to you; I will give you a sample of it. For instance, on page 204, at the top of the page: "Exhibit 813, Tague; Exhibit 812 not counted." That was a sticker without a cross. That is the way it goes down. I have designated all those where the sticker was put on without the cross, or the sticker with the cross, and there were times where the cross was outside of that little square, and they would not count them, and there were times when the cross was in the square and they would not count them.

Mr. LEHLBACH. Where are the ballots now?

Mr. O'CONNELL. In Boston.

Mr. LEHLBACH. Are the counted ballots, as well as the rejected ballots, preserved?

Mr. O'CONNELL. Every ballot.

Mr. LEHLBACH. The rejected ballots were there, showing the reason for rejection on the face of them?

Mr. O'CONNELL. Yes.

Mr. LEHLBACH. Did you in the preparation of this case check up the registry list, or the voting list, the list of names voted, and check up what number of votes were cast on names and residences of persons in the fifth ward of the city of Boston who could not be found at those places?

Mr. O'CONNELL. Yes; we have that all checked up, and it is in the testimony.

I will call your attention particularly, gentlemen, to a remarkable exhibition of memory. I will ask you particularly to recall and observe the testimony of Mr. Tague. We could not get in the evidence about these men who refused to obey the summonses, and we had re-

course to secondary evidence, so I put Mr. Tague on the stand to tell what he knew of those men, and he went on and told about some 459 that voted. Their names were certified in one of the exhibits as having been voted on by the election commissioners, and he testified about those men and where they lived, and after he got through Mr. Callahan, my very able brother, took him under cross-examination and said, "Why this remarkable feat that you have gone through to-day? Let us see about it." And then he started off haphazard on that list and said, "What about this man? What about that man? What about the other man?" and he goes to the top, comes to the middle, skips then to the end and comes back elsewhere, and for three or four pages in the testimony, Mr. Tague states who and what that man is and where he resides, and finally, after half an hour or more of that Mr. Callahan says, "I will give you notice that I am going to ask you to come back to the stand for further cross-examination on that," and Mr. Tague says, "I am willing at any time," and although Mr. Tague was willing at any time they never asked Mr. Tague to give them any more demonstrations of what he knew about this particular case. It is one of the most striking exhibitions of complete memory as to details that the Boston courts had ever seen, and it absolutely disposed of where and who those men were that voted.

Now, much has been made about this illegal registration. Let me say to you, Mr. Chairman, what do you say to this situation? The three boys who managed the Quincy House, the headquarters of the contestee, where he is a part owner, and where there were a tremendous number of illegal registrants, live right opposite your family's home out in Brookline, men living in beautiful colonial brick mansions out near the spires of Boston College. You may look away from your family's home across that beautiful pond, and you see the palatial homes of men living in Newton, who were voting down in that district. Is it fair? Newton was filled with them, living in massive homes that represented any amount of money, beautiful surroundings where their families resided and their children went to school, where their wives live the year round. Is it because Mr. Lomasney and Mr. Fitzgerald live there and vote in ward 5 that they are going to violate all the laws of domestics and all the laws of Congress by voting in this district in order to send Mr. Fitzgerald to Congress? I do not think so, and that is upon the testimony of all these people here that we have brought in evidence about.

MR. FITZGERALD. Mr. Chairman, I want to say that I do not own a dollar's interest, and never did, and I am sorry that I do not own some of the Quincy House.

MR. O'CONNELL. Well, if that is not in the evidence I will withdraw it; but if it was necessary to have it proved to the committee, I can assure the committee that I could prove what I said.

MR. FITZGERALD. If he can prove that, I will resign my job now.

MR. O'CONNELL. You ought to have resigned long ago.

MR. FITZGERALD. I will not go any further.

MR. O'CONNELL. Now, then, we were notified that the gentleman was going to testify. He could have denied that on the stand. We were notified that he was coming in and testify, and when we were in court ready to go on with the hearings, the testimony shows

that his counsel made the statement that he had gone away to Palm Beach, but would come back when the time came for his testimony.

Mr. FITZGERALD. You were down there this winter.

Mr. O'CONNELL. Sure.

Mr. FITZGERALD. Why should not I go down?

Mr. O'CONNELL. I was not down there dodging an attack on my congressional seat. When he came back and came into the court room, in accordance with the notice, the evidence shows he did not testify. There was not a particle of testimony from this contestee, and yet he wants you to hold him in this seat, I do not know why. I can not understand any reason why the contestee should not have taken the stand and given me the opportunity to have asked him these very material questions as to whether he offered Mr. Tague two years' salary.

Mr. Tague testified that Mr. Fitzgerald went to him and offered him two years' salary and said, "I am a very wealthy man; I am a rich man. I do not need the salary, Peter, you get out of here." He says in his testimony, "Peter, I am a rich man. I do not need the salary. I will give you two years' salary, and besides that I will get you a job from Peters." Mr. Peters being then the mayor. "Why do you not get out?" Peter said, "I do not want to make such a deal as that." That is all carried in the Boston papers. Mr. Fitzgerald's attorney knows about it. The charge is there that Mr. Fitzgerald, through Lomasney, paid one man \$1,000, and we put in the testimony to whom that money was given, and that man admitted that he got the money. Mr. Fitzgerald knows all about it, but there is no denial of it, not a particle of contradiction, not a bit of contradiction of any of these things that are so material in the case. Why? Why should he not have presented himself so that you could have the value, whatever it might be, of his testimony?

Now, then, I have shown you that there was fraud. Mr. Lehlbach asked me if we had those figures. We did. That covers the point that I think you had in mind, Mr. Overstreet. In regard to this illegal registration of four hundred and some odd voters in these three precincts in ward 5, we ask the committee to throw out those three precincts because of the fraud that prevailed there. We ask you to disregard those three precincts, and if you disregard those three precincts it will mean a net loss to Mr. Fitzgerald of 554 votes. That has been the doctrine that has been followed by Congress in many cases that I have cited in my brief.

Mr. OVERSTREET. Is there any evidence in the record showing any attempt on the part of Mr. Tague's representatives to commit any fraud?

Mr. O'CONNELL. Not a word; not a particle. I will take that back. There was an intimation. There is an intimation that Mr. Patrick Goggan, who lived in Mr. Tague's house, did not have the right to vote. There was the intimation that Mr. Martin Turnbull, who lives in Mr. Tague's mother's house, did not have the right to vote, and we brought in evidence to show that neither of those two gentlemen voted. In other words, they bring out four cases. They brought out Mr. Turnbull who did not vote, Mr. Goggan who did not vote, Mr. Charles L. Burrell, our city treasurer. Mr. Burrell has been for five years elected city treasurer, and he lives at the Boston City Club all the

year round, and they brought Mr. Burrell in to testify, and they tried to go into his family affairs to find out about the separation between him and his wife. It was as contemptible as that. It makes a man's blood boil to think of some things that they went into. Burrell lives at the City Club from one end of the year to the other. The City Club is a 12-story building where men live the year round.

And then they bring in Mr. Bernard Rothwell, who has been president of our chamber of commerce, and one of our leading citizens, who has been living there since his wife's illness two or three years ago; and then they bring in Senator Thomas, who voted from the home of his father, as he had for a number of years, where he had to make a voting residence because of property rights.

In other words, they made five charges of irregularity, in the instances that I have shown you. Goggan did not vote, Turnbull did not vote, Burrell, our city treasurer, did vote from where he lived. He was a Republican. Mr. Rothwell voted from where he lived, and Senator Thomas voted from where he lived. We come before you clean and unblemished, with no proof that there was any fraud on our part. We did charge them with it in many instances, and they have not denied a particle. They intimated that there was irregularity, they made insinuations, but when brought down we find that Mr. Turnbull, living in the house that he was born in, did not vote there, although he is a cousin of Mr. Tague, and although Mr. Goggan was in Mr. Tague's house, and they claimed that he had no right to be there, he did not vote, so that the committee can absolutely disregard anything of that kind.

I guess I have taken up my time.

The CHAIRMAN. You have taken your time.

Mr. O'CONNELL. I will stop now, concluding with this as my hour, and will use my other half hour in my concluding argument.

Mr. CALLAHAN. I am perfectly willing to have the committee extend more time to Mr. O'Connell.

STATEMENT OF MR. TIMOTHY F. CALLAHAN, ATTORNEY FOR CONTESTEE.

Mr. CALLAHAN. Mr. Chairman and gentlemen of the committee, Mr. O'Connell, counsel for Mr. Tague, is animated in this thing by a great personal hostility to Mr. Fitzgerald, and we were confronted with just that same situation when we were conducting these hearings in the post-office building in Boston. You can appreciate from the remarks of Mr. O'Connell this morning how difficult it is to get him down to the real issue in the case. We spent, I believe, in a part of the case, the contestant's case, at any rate, some 15 of the 20 days in the examination of witnesses by Mr. O'Connell, in which he was looking for headlines in the newspapers, and in the last three or four days we got down to the real issue in the case.

The real issue in this case, gentlemen, is the examination of ballots to see whether or not Mr. Tague or Mr. Fitzgerald received the most votes, that is, whether Mr. Tague received more votes than Mr. Fitzgerald, or vice versa. We contend, of course, that Mr. Fitzgerald received the most votes, and his election was certified to by the Boston election commission and by the governor and council, as is required

by statute. Mind you, this certificate, gentlemen, does not come after a count of the election officials at the polls, but this comes after a recount by this bipartisan board in Boston, two Democrats and two Republicans, and it was unanimous, and later on it is certified to by the secretary of State, by the governor and his council.

Now, in this case, as it appears before the committee now, they claim you ought to review the actions of the Boston commission, that is the Boston election commission, and the ballot law commission of the State of Massachusetts, in their certification of Mr. Fitzgerald's election at the primaries, on account of some alleged irregularities, and then that you should examine into those other alleged irregularities in the conduct of the election which was a month later. Now, if we are going to examine these things at all, gentlemen, we have got to separate the two things. We have got, first to examine the primary and find out what facts were shown there and settle that once and for all, and later on, gentlemen, find out what facts existed at the time of the election, and settle that, independently of the primary.

Now, my brother in his brief has taken some facts that were brought out at the time of the primary and has interwoven them with other facts or alleged facts that occurred at the time of the election, and he says the whole thing shows fraud, but I say if you are going to examine this thing sanely, if you are going to get a clear idea of what happened up there, you have got to separate the two things.

Now, let us take the primary. The primary was conducted, we say properly, they say improperly. They petitioned for a recount to the Boston election commission, and that is the commission in Boston that has supervision of all election matters there. That is a commission, gentlemen, that is appointed by the mayor. It is a bipartisan board. There are two Democrats and two Republicans on that commission. This commission, on the petition of Mr. Tague, granted a recount, and that recount, gentlemen, showed that Mr. Fitzgerald was nominated by 50 votes. Now, that is a canvassing board, gentlemen.

Mr. OVERSTREET. They reduced his original majority, did they, somewhat?

Mr. CALLAHAN. I think they did, yes, but the final count by this recount board was 50 votes. That is a canvassing board, and you do not suppose they are entitled under the statute to get any other evidence than what is shown on the face of the ballot.

Mr. Tague was not satisfied with the decision of that board, which, by the way, was unanimous, and he appealed to the State Ballot Law Commission, and that also is a bipartisan board, appointed by the governor of Massachusetts. There are three men on that board, and he asked to have the conduct of this election and the conduct and the findings of this board reviewed by this State Ballot Law Commission, and there was a very extensive hearing, gentlemen, and they went into all those questions, completely and exhaustively, and that board appointed by a Republican governor of Massachusetts also found unanimously in favor of the nomination of Mr. Fitzgerald.

Now, then, in connection with that, the petition filed by Mr. Tague was filed under the statute, and all that the contestee needed to have

done at that time, gentlemen, was to call attention to that, and Mr. Tague would not have been deprived of that hearing. That is clearly shown in the evidence of the secretary of state, and yet Mr. Fitzgerald, the contestee, waived all his rights, waived all his objections, and said, "If I have not got this thing fairly, I do not want it at all." and urged his counsel to go forward in the investigation, and there was a complete investigation, and that board also unanimously found in favor of Mr. Fitzgerald and said that he was nominated by 50 votes. Now, the findings of that commission, gentlemen, are in the evidence and also in my brief, and they show clearly what evidence was before them, and also give the reasons that made them give that decision. That is in the brief and I will not bother you with it now.

Now, prior to that, to show what the contestant did prior to the time that he went to the ballot law commission, he made a petition to the municipal court in Boston, and we have in Massachusetts, gentlemen, as a part of our election laws, a statute giving the right to anybody to bring his petition promptly and to go before the courts there, the chief justice, and have an inquest, and I want to call attention particularly to that statute, because, to my mind, that is the most drastic section of the law that you can find on the statute books of any Commonwealth. Their claim, as it has been shown by Mr. O'Connell that witnesses did not appear, either from technicalities or because they were not summoned properly, would have been of no avail before this municipal court in Boston, because they had the right to summon them, they had the right to hold them as prisoners, to make them give bond for their appearance, and they could not claim any immunity for themselves in that way, gentlemen. I want to call attention to that statute, or to a part of it, here, especially relating to the subpoenas:

Such court, justice, or attorney may issue subpoenas for witnesses, who shall be allowed the same fees, and whose attendance may be enforced in the same manner and who shall be subject to the same penalties as if served with subpoena in behalf of the Commonwealth in a criminal prosecution before such court or trial justice.

And in a criminal prosecution, of course, gentlemen, in our State at any rate, witnesses are subpoenaed without fees, and they are paid afterwards, and if they do not appear they will be prosecuted.

Now, that gives anybody who brings a complaint under section 372 this right:

Upon a complaint subscribed and sworn to by any person before a police, district, or municipal court, alleging that reasonable grounds exist for believing that any law relating to the assessment, qualification, or registration of voters, or to voting lists or ballots, or to primaries, caucuses, conventions, and elections, or to any matters pertaining thereto, has been violated, such court of justice may at once hold an inquest and inquire into such alleged violation of the law.

And it provides, gentlemen, that there shall not be an open hearing, and we have had a number of inquests in Massachusetts, and witnesses were compelled, as in a murder case, frequently to sit outside and to be examined one by one, with counsel for contestant and counsel for contestee and the stenographer there to get all the evidence.

Now, then, if the contestant's claim in this case was a valid claim, and if he believed the things that he said in his brief and in his testimony, and if his counsel believed those things, gentlemen, there

was the place at that time to go forward, and he refused to go forward in that investigation.

Mr. O'CONNELL. Pardon me. You do not mean to misrepresent. I will call your attention to page 61 of the testimony, which states that Mr. Tague exhausted every right. Probably you have overlooked that.

Mr. CALLAHAN. I have not overlooked it. Mr. Tague brought his petition before that court, gentlemen; and if he was sincere, if he was honest, if he believed the things that he said, he would have pressed his claim before that court; and certainly he can not blame anybody else for not pressing the claim when he made these assertions and these charges alleging illegality at the primary and illegality in the question of registration. Does he want to blame us for not going forward? He is the one who has got to explain why he did not go forward. The remedy stands open to the person who has a complaint. He could have gone forward at any time either before or after the primaries, and he did not.

Now, that is on the question of the primaries, gentlemen. He petitioned for a recount to this nonpartisan or bipartisan board appointed by the mayor of Boston, and they gave him a recount, and it was a fair recount, gentlemen, notwithstanding the claims of my brother, O'Connell; a very fair recount, where Mr. Tague had two watchers at every table, where every disputed ballot was examined by counsel on each side and by the commissioners after argument by counsel, and that board unanimously decided that Mr. Fitzgerald was nominated by 50 votes.

Then he went, as I described before, to the ballot-law commission, and he brought his story there. He says he was not permitted to cross-examine these witnesses; but, gentlemen, at that time, you want to remember this, that that board was not going into the question of illegal registration. That board was simply examining into and inquiring into the findings of the election commission in Boston. It was an appeal. Whether or not these findings were correct was the question before the ballot-law commission, gentlemen, and they decided that they were correct, and give you their reasons; and, mind you, gentlemen, that was a hearing of some 15 days; that was not any snap hearing, gentlemen. That was a hearing that went over 15 days, one of the most exhaustive hearings that was ever held in the State of Massachusetts.

Now, he did not press his claim before this court under this statute, and I hope you gentlemen will read it to see what a drastic statute it is and the right he had under that statute to prove every claim that he alleges here. He did not press it, and now he asks you men to set aside the findings of that bipartisan board in Boston, a regularly constituted board; and he also asks you to set aside the findings of the ballot-law commission appointed by the governor of Massachusetts, also a bipartisan board, and, in each case, gentlemen, these findings were unanimous.

Now, Mr. Chairman and gentlemen, he asks you to overturn the findings of the State ballot law commission, and yet he does not produce any evidence. No evidence was produced in all these hearings to show that they had acted in any fraudulent way, except the testimony of Mr. Tague, and as you men will examine this testimony the

thing will come out more clearly every minute that this is a contest in which Mr. Tague is pretty nearly every witness for the contestant. He testified to everything. Mind you, in this district, where there are thousands and thousands of men, where there are 22,000 registered voters, where over 15,000 voters voted on that day, where there are perhaps a hundred thousand people living, Mr. Tague is the one witness who testifies to all these things, with perhaps the possible exception of three or four of his henchmen, and we will show you that very clearly.

Now, gentlemen, I do not see how this committee can go back of the primary, or can go back, rather, of the findings of these two bipartisan boards, because, if you do that, you, first of all, show that we have a dishonest and a dishonorable commission in the city of Boston handling our elections, and who were appointed by the Mayor. It is absurd to say that Mr. Lomasney, who happens to figure prominently in the discussion of this case, is responsible for the appointment. Is it not queer that Mr. O'Connell should say to you gentlemen who know politics that a man in the city of Boston, or any city, who simply controls, or, rather, has considerable influence in one ward, can appoint the Mayor and can influence the Mayor entirely in his appointments, and not only that, but can also influence a Republican governor, the governor of an opposite party? Is not that an absurd thing? Is it not absurd to say that this man controls those two commissions: but if that is so, gentlemen, I do not see how you can examine into that at all, because there is absolutely no evidence in this case except the statements and charges of the contestant, Mr. Tague. I do not see how you can overthrow the findings of those two commissions who made this complete investigation, and therefore I want to take up now the question of the election, because, after all, gentlemen, I do not know whether it was done for the purpose of confusion or not, but it seems to me that the election is the one thing for this committee to discuss, and you ought to take up the charges of Mr. Tague and examine into them to see if he has made out a case.

Now, the election was held, I think, on the 5th of November, and Mr. Fitzgerald, as certified to by the Secretary of State, was the regularly nominated candidate of the Democratic Party. There was also a Mr. Fletcher, who was the regularly nominated candidate of the Republican Party, and Mr. Tague who ran as an independent on stickers. Now, if we examine into the complaints or the charges of Mr. Tague, the contestant, or Mr. O'Connell, his attorney, I think we can separate the thing into two or three propositions. He alleges fraud, and we might take some subdivisions of that fraud in the use of money, fraud in coercion and intimidation, and fraud in illegal registration. Those are the allegations of fraud that he makes, and in that, of course, comes fraud in the use of these illegal stickers.

Now, as these stickers must be fresh in your minds, gentlemen, I would like to discuss them just for a few minutes. Nobody is clear about these stickers. That one sticker appeared sometime during our hearing. Nobody had ever seen it before or heard of it, and it had a sort of mysterious appearance. Mr. Tague, in his examination, his direct examination, says that he got it in one precinct of ward 1, and on cross-examination he said he got it in another precinct of

ward 1; in his direct examination he said he got it from the ballot box; in his cross-examination he said it was handed to him by somebody in another precinct in ward 1.

Now, if Mr. Tague was not clear about that I do not know how we can be clear about it, but I want to call your attention to this fact, that in that whole mass of testimony here, gentlemen, there is not one word of evidence, there is not one bit of evidence that shows that one of those stickers was used on that day, and is not that an amazing thing when you consider the fact, gentlemen, that Mr. Tague had watchers at every precinct, and workers, enthusiastic workers; that at each precinct there were six election officials, and in two wards there were extra supervisors appointed by the commissioner; that at each precinct there were from two to four police officers, and not one witness out of all those watchers, police officers and election officials, or 15,000 voters, to show either that one of those stickers was used, or that any of those stickers were distributed? Now, that is an amazing thing when you hear the charge of Mr. O'Connell, and for this reason I say it is amazing.

Now, let us examine into the evidence on these stickers. He says that Mr. Horn admitted that he gave out these stickers. Now, what is the testimony? The testimony is this: Mr. Murray, who was an undertaker, by the way, or an undertaker's assistant, and was the manager of Mr. Tague, or his assistant manager at any rate, signed all this literature. Mr. Murray testified that on the night after the election he heard two men discussing the election, and one fellow said to another, "Well, we did it all right, we did it all right, and we did it with these," and he said that he grabbed hold of some of these stickers, a great many of them, gentlemen, or they were handed to him—these pseudo, fraudulent, "phony" stickers, as my brother calls them—they were handed to him, but none of those stickers ever appeared afterwards, unless they were printed by Mr. Murray afterwards, and made to appear now, but they never appeared in evidence. And what did Murray do in order to confirm his story?

Mr. O'CONNELL. Mr. Callahan, I do not want to interrupt you, but you say that they did not appear in evidence. They are among the exhibits; there are a great many of them among the exhibits.

Mr. CALLAHAN. Murray does not say, and he is their chief witness, that anybody used these stickers, and he was a watcher at the polls that day. He says he heard somebody say that he did use it. Is that evidence that ought to be treated seriously by this committee? Would that be treated seriously by any court of law, the testimony that he heard somebody say that he had used these stickers? But that is the evidence, and what does he bring in for corroboration? He brings in for corroboration another man to whom he went later that night, and he said to him, "I heard somebody say that they used these stickers," and that is the evidence of the use of these stickers.

Why, gentlemen, that is an absurd story. Congress has held repeatedly, as the courts have held, that hearsay evidence of that kind should not be considered by a congressional committee, and we ask that you do not consider it in this case. That is the evidence of the sticker, gentlemen, and some other evidence of a man who worked at a precinct in ward 6 for Mr. Tague who said he saw some blank stickers on the floor, but he did not know whether they were stickers

that had been dropped by the election workers or not, and he did not know whether there was gum on them or not.

Now, gentlemen, what are these stickers? Do you not think that the first thing that would occur to any lawyer examining into a case and making that claim would be to pick out certain ballots where it appeared that stickers had been pasted on, or that the attempt had been made to paste on stickers, and show them to this committee? Is not that the natural and logical thing that you men would do in trying a case if you made that claim or made that contention, and has the contestant brought one ballot here to show, or is it in evidence that there is one ballot, where a sticker fell off? Certainly there is not.

My brother calls attention to the fact that these things are described; that these ballots are described, but how are they described? Are they described by a witness on the stand? No; they are not described by a witness; they are described by him, and it is only natural to suppose that his description would be a biased and inaccurate one. Now, can you gentlemen consider evidence like that, where they had 40 days to bring these ballots before the commission and put the commission on the stand, each one of them, and say to the commissioner, "Why did you not count that ballot? How is that ballot counted? It is not counted at all. Why did you not count it?" and have the commissioner explain why he did not count it? But no, that was not done. They simply got these out for the purpose of exhibits, and here on the top of this page to which Mr. O'Connell has called attention, gentlemen, he described ballot No. 813, which is one of some 1,300-odd ballots that are held out for exhibits or marked as exhibits at the time of the recount.

Perhaps I had better describe how it was done. When they were examining into these ballots the election commissioners would take them out of the box and would say how they were counted, and then, instead of asking them why they were counted that way, or why they were not counted, Mr. O'Connell would take it upon himself to describe the ballot, and, of course, with all due respect to Mr. O'Connell, as I think under ordinary circumstances he is a very honorable gentleman, in a case of this kind he was doing everything to help his client, and he was very hostile to Mr. Fitzgerald. "No. 813, Tague, 812, not counted." That is Mr. O'Connell's comment, and he asks you to treat it as evidence, a sticker with no cross. There is no evidence of a single person, gentlemen, that that is a sticker with no cross, except the statement of Mr. O'Connell.

Mr. ELSTON. Was that statement challenged? Did anybody who was observing the thing at the same time say, "No; it is not a sticker with no cross"?

Mr. CALLAHAN. It was all done over our objection. Certainly Mr. O'Connell knew how to get a proper description of a ballot from a witness on the stand.

Mr. ELSTON. Of course, this very brief description here conveys a very intelligent impression to the mind of a person as to what it means. Now, it would look like it would be the natural thing for a man who was sitting in on the examination at the same time to challenge his description of that ballot, and his reference particularly to the square with no cross on it.

Mr. O'CONNELL. And they did, Mr. Committeeman.

Whenever I made a description that did not please them they then challenged it, as will be disclosed there.

Mr. ELSTON. That is natural, as bringing out the contradiction of what went on there.

Mr. CALLAHAN. Let us take up these first ballots, and there must be some hundred ballots where there was no description at all, where they were not described even by counsel, because it seemed to be his purpose at that time, and he stated it on several occasions, that he was going to have these ballots down in Washington, and he was not going to take the trouble to examine these ballots, he was not going to take the trouble to give a proper description through proper witnesses, and he then, after about 100 ballots were in without any descriptions, started to describing the ballots in a facetious way at first, and the descriptions were not always accurate.

Now, gentlemen, we objected to that, because it was not a proper introduction of that evidence; it was not proper evidence, because he could not testify; the witness was on the stand.

Mr. LEHLBACH. Let me ask you this question: Suppose there is a trial in a court; the witness is testifying from an exhibit, a wall map, we will say. The lawyer asks, "Where were you when the collision occurred?" The witness says, "I was standing here" [indicating with a pointer], and the opposing counsel says, "Indicating a point a foot and a half from the east curb of the street."

Now, do you think that would not be evidence?

Mr. CALLAHAN. Yes.

Mr. LEHLBACH. Well, is not a description of the ballot in the presence of both parties—in the presence of opposing counsel—a matter of record?

Mr. CALLAHAN. I think it is. But you will remember that when he started to describe those ballots that the witnesses who had counted them should have described, we objected to it, and then it was proper to put those ballots in properly.

Mr. J. F. O'CONNELL. Whenever you objected the objection is in there.

Mr. CALLAHAN. Whenever we objected the objection is in there, and the notary taking the evidence said, "I do not want you objecting all the time."

Mr. ELSTON. What was the objection to—the introduction of the ballot at all?

Mr. CALLAHAN. Not at all. My objection was to the description by Mr. O'Connell, which was not an accurate description.

Mr. ELSTON. What did you contend for as an alternative?

Mr. CALLAHAN. That the witness who was counting the ballot should describe it.

Mr. OVERSTREET. Did not Mr. O'Connell have this ballot before him and in front of you when you were taking this testimony?

Mr. CALLAHAN. No; the commissioner had it in front of him.

Mr. J. F. O'CONNELL. The commissioner had it there right over the table.

(Thereupon, at 12.15 o'clock p. m., the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled at the expiration of the recess.

ARGUMENT OF MR. TIMOTHY F. CALLAHAN ON BEHALF OF CONTESTEE—Resumed.

Mr. CALLAHAN. Mr. Chairman and gentlemen, just before the recess we were discussing the weight that should be given to the evidence that was introduced before the notaries on the question of the ballots, and we contended, of course, that that evidence was not introduced properly.

Mind you, the evidence that is before you gentlemen and the description of those ballots is not a proper description and is not evidence that was brought out before the election commissioners on a recount. It is evidence that was brought out before notaries, where the election commissioners were summoned and asked to bring the ballots with them; and rather than take the ballots from the vaults, or their rooms in the Federal Building, we chose to have the hearing in their offices. But, nevertheless, they were witnesses, and we contend that those ballots should have been shown in a proper way through those witnesses.

Mr. RHODES. What do you mean by a "proper way?"

Mr. CALLAHAN. I mean that a ballot should not be taken up—and mind you, these men had counted these ballots in the first instance, and it was their count that was disputed. A ballot should have been taken up, and if it was a ballot with a sticker on it and no cross, that should have been described by the witness to that extent. For instance, Mr. O'Connell should have asked the commissioner who was introducing that ballot how that was counted, and if it was not crossed for the candidate it was no vote; and why was it no vote? He would say it was a sticker without a cross; and they do not count stickers without crosses in Massachusetts. And that should be the evidence that should be before your committee.

Mr. OVERSTREET. May I interrupt you a minute? I do not quite understand. How did Mr. O'Connell describe them, then? Did he take it open on his examination of each of the ballots in the presence of you gentlemen and put it in the records?

Mr. CALLAHAN. Mr. O'Connell stood behind these men and made comments; he did not give a description.

Mr. OVERSTREET. Did he take the ballots up in his hands and expose them?

Mr. CALLAHAN. No; the commissioners had possession of them all the time.

Mr. OVERSTREET. Well, after he would see the ballots in the hands of the commissioners, would he then describe the ballots as contained in these records?

Mr. CALLAHAN. He made comments; it was not a description.

Mr. OVERSTREET. Well, you all heard him, did you not?

Mr. CALLAHAN. Yes, and we objected to them.

Mr. LEHLBACH. As a matter of fact, the commissioners were adverse witnesses to Mr. O'Connell, because their findings were the subject of attack. Is that not true?

Mr. CALLAHAN. I do not know whether they were adverse witnesses or not; I should say they were not.

Mr. LEHLBACH. Well, as a matter of fact, the commissioners found that Mr. Fitzgerald had the most of the votes, did they not?

Mr. CALLAHAN. Yes.

Mr. LEHLBACH. And this was a proceeding to upset that finding. Now, if Mr. O'Connell had described a ballot improperly, would they not have called attention to that fact?

Mr. CALLAHAN. They did. They refused to sign this testimony for that reason. If you will notice this testimony you will see that where Mr. O'Connell made that comment the election commissioners refused to sign it and said it was not their testimony.

Mr. LEHLBACH. Does the record show that he made any comment which was untrue?

Mr. CALLAHAN. Do you mean that we objected to?

Mr. LEHLBACH. No, not that you objected to; does the record show that any one said, "That is not that kind of a ballot," or "there is no sticker on here," or contradict any statement of fact that he made with reference to that?

Mr. J. F. O'CONNELL. I will say this to you, that I went through the testimony at noontime to-day, and there is no such evidence.

Mr. CALLAHAN. But I want to call your attention to the fact that, if this evidence is worth anything, you must have a description of all those ballots. Now, it was not Mr. O'Connell's intention when he mentioned these ballots to the committee—it was not his intention to describe those ballots, or to have his witnesses on the stand describe them. It was his contention, stated openly and publicly, that those ballots should be held as exhibits, so that they could be brought before this committee.

Mr. LEHLBACH. Were they marked as exhibits?

Mr. CALLAHAN. They were marked as exhibits. Now, that was the way it started, with the result that there were some 100 ballots out of 1,300 ballots that were not described by Mr. O'Connell. So that, for the purposes of this committee, that evidence is absolutely valueless.

Mr. ELSTON. But the committee could hardly be supposed, where there is a controversy here as to the evidence of the intention of the voter, to leave the thing up in the air, where Mr. O'Connell's mention of them, as you say, was uncontradicted. Of course, that raises a curiosity in our minds; if you admit that it is proper for us to have them before us to make our own conclusion upon them, irrespective of the technical construction placed upon that kind of a ballot by the Massachusetts law. Are you going to invoke that rule of the Massachusetts law so that it would be useless in any event for us to have them before us?

Mr. CALLAHAN. I say this, that the burden of proof properly is on the contestant; the burden does not shift to us. If Mr. O'Connell is not proving his case properly and if he is not putting his evidence in properly, of course, under the rules of evidence which prevail just as in a court of law, the burden is not upon us to tell him to do it properly and to instruct him how to do it. You will admit that if you want that evidence before your committee properly it is for them to do it, and it is not for us to say that they are not doing it properly.

Mr. ELSTON. No; but I think this committee has wide latitude, and I think you will recognize that, not being bound by the technical rules of a court, what this committee would like to do is to get down to the merits and heart of the case without reference to technicalities of any kind. I may say that most of us, having had some experience of court procedure, would like to get right down to the heart of the matter.

Mr. CALLAHAN. That is just it. We say that their claim that there are so many ballots with stickers on them and without crosses, and that have not been crossed as required by statute, is absolutely and unqualifiedly untrue.

Mr. ELSTON. That is it; there is some kind of an issue.

Mr. CALLAHAN. We have no objection and never did have to having those ballots brought here.

Mr. ELSTON. In other words, you do not want his comments on the record to stand for the facts, and you controvert them absolutely.

Mr. CALLAHAN. Absolutely.

Mr. ELSTON. And you say that the very ballots on which he makes comment are not borne out by the ballots themselves?

Mr. CALLAHAN. I will not say they all are not; I will say that in many instances he did not describe those ballots properly.

Mr. ELSTON. And that will appear through evidence appearing on the ballots?

Mr. CALLAHAN. We have no fear of a proper count of these ballots; we are perfectly willing that they should be brought here——

Mr. RHODES (interposing). The gentleman continues to use the word "properly." Do you refer to illegal testimony or the illegal presentation of the ballots under the Massachusetts law, or what am I to understand you to mean?

Mr. CALLAHAN. Do you mean in the introduction of these ballots as testimony?

Mr. RHODES. Yes; you say they were not properly before the committee?

Mr. CALLAHAN. Exactly.

Mr. RHODES. Do you mean that they were not brought in as a matter of legal evidence?

Mr. CALLAHAN. No; I think this committee had a perfect right to get a proper description of those ballots; but I say that counsel for the contestant did not have those ballots properly described, and I say further——

Mr. RHODES (interposing). You mean correctly described?

Mr. CALLAHAN. Correctly described—correctly or properly. Because I contend that this man has no right to stand behind men who were witnesses, and when he has the right, to ask them to describe those ballots and get that in as evidence, and he refuses or fails to do that and he makes comments on those ballots himself. That is not evidence.

Mr. OVERSTREET. Let me make this observation along that line. It seems to me that what he did was simply to aid the witnesses, or the notary, in expediting the case; inasmuch as a great many people can not testify to facts as intelligently as others can testify to them—you have seen that on the witness stand?

Mr. CALLAHAN. Certainly.

Mr. OVERSTREET. And I judge from his commenting on those ballots, as he did in the presence of the witnesses and in the presence of you gentlemen, and no objection having been made to his statements, that his comments must have been justified from the ballots?

Mr. CALLAHAN. That is just what we did; we did object to his comments; and if he had said to us that he wanted his comments to be regarded as a proper objection to those ballots, he would have said to me, "Do you agree to this, Mr. Callahan?" But that question was never asked.

Mr. ELSTON. Well, right after the comment of Mr. O'Connell referring to a particular ballot, if he had said, "This is a ballot with a sticker and no cross"—and the witness had said "Yes"—would that have been proper?

Mr. CALLAHAN. I should think so.

Mr. ELSTON. Well, do you not think that the witness's acquiescence would have been equivalent to his saying "Yes"? I should say that in ordinary procedure that presumption would have been almost conclusive of the correctness of Mr. O'Connell's description.

Mr. CALLAHAN. That would have been true ordinarily. But you must take into consideration the situation in which we were. Here were men turning over the ballots rapidly, for the purpose of having them as exhibits before this committee; and 100 of those ballots were turned over, and it was shown how they were counted, either for Mr. Fitzgerald or for Mr. Tague, or blank. No description of those ballots was made. Then Mr. O'Connell takes it in his head to comment on those; he does it in a facetious way. Now, that can not be taken as evidence before this committee.

Mr. ELSTON. Well, if the witnesses had made any kind of assent——

Mr. CALLAHAN (interposing). I say the witnesses did not assent to it, because they refused to sign their testimony.

Mr. LEHLBACH. How many of these ballots were marked as exhibits?

Mr. CALLAHAN. 1304 or 1307 of them.

Mr. LEHLBACH. Are the exhibits produced here in this case?

Mr. CALLAHAN. Well, they are ballots; and under our laws they must stay in the custody of the election commissioners, and they are there now.

Mr. O'CONNELL. No; they were taken and sealed up by the notary and put in the hands of the election commissioners.

Mr. CALLAHAN. Now, I do not agree to that at all. They were put back in the ballot boxes, as the statute requires that they shall be; and that is where they are now.

Mr. OVERSTREET. At any rate, the original ballots are not here before this committee?

Mr. CALLAHAN. They are not. But we contend that, if they make any dispute about those ballots, they had the right to describe them properly, and that description should be before your committee.

Mr. LEHLBACH. Do you mean to say that there is no legal way in which those ballots can be procured before this committee?

Mr. CALLAHAN. No; your committee can request the election commissioners to bring those ballots, and they will do it. But contestant's attorneys had 40 days in which to prove their case and do it properly.

Now, I do not know that that is getting us anywhere. We are on the question of these stickers.

They said on page 14 of their brief—and this is only like a great many other statements that they have made, absolutely wrong, and intentionally untruthful, I think—they say:

The percentage of blanks for Congress in this contest is about $7\frac{1}{2}$ per cent, whereas the percentage of blanks for the other offices will not average $2\frac{1}{2}$ per cent, which clearly proves the excessive use of the deceptive stickers.

That is absolutely untrue. The percentage of blanks, as we have shown in our brief, is about 5 per cent. And they argue that, because there is a large percentage of blanks, it is a good reason to assume, or it is pretty good evidence, that a great many stickers, or of fraudulent, pseudo, or so-called stickers were on them and had fallen off.

They say that there is $2\frac{1}{2}$ per cent of blanks in other contents. That is absolutely a farce. I want to show you, by a comparison of the blanks in the other two Boston districts that there is no difference whatever between the percentage of blanks in the votes cast for Congress, for United States Senator, and for governor of the State, and I can show that in a very few minutes.

In our district, the tenth district, instead of $7\frac{1}{2}$ per cent, there were 794 blanks; and that is 5.1 per cent of the votes cast: 5.1 per cent of the votes cast were blanks.

In the eleventh district, which is an adjoining district, there were 4.9 per cent, which is a difference of one-fifth of 1 per cent in the number of blanks.

In the twelfth district, which is also contiguous on the other side, there were 5.6 per cent of blanks. So that in that contest, where there were no stickers and it was impossible for any sticker to fall off, there was a greater number of blanks than there was in this district, where they said that the stickers were put on and had fallen off.

Mr. MCGLENNON. Were the conditions in all of those districts similar? Were there contests in each of those districts?

Mr. CALLAHAN. Yes; there was the Republican and the Democratic candidate for Congress.

Mr. MCGLENNON. Were there stickers there, too?

Mr. CALLAHAN. There were no stickers: no, sir. But, mind you, they say that in this district there were an extraordinary number of blanks: and we show that there was no extraordinary number of blanks.

Now, take the number of registered votes. In the tenth district there were 22,202, and the vote for governor—this was compiled for us by the election commissioners and is in one of these reports; I think that in counting it over they made a mistake of about 90 or 100 votes; but in the percentage it only means three-tenths of 1 per cent. But the vote for governor in the tenth district was 15,323. We think that is 15,423, a difference of 100 votes, and we give them the advantage on that score.

The vote for United States Senator was 15,201, and the vote for Congressman was 15,294.

Now, in our State last year there was a very spirited contest for United States Senator, and Mr. Walsh won over Senator Weeks; and it was a tremendous contest; and yet here in this district, where they

say there is a larger percentage of blanks in this contest than in any others, as a matter of fact, there were more votes cast and counted in this congressional contest than there were for the candidates for United States Senator. That is a specious argument; and when they give those percentages that are wrong—and they give them deliberately, and they put in their brief—we say that they do not approach this question in an honest way.

Now, in another way we can show this. The vote for governor was 68 per cent of the registered vote of that district; and there were 95 per cent of the votes cast and there are almost 5 per cent of blanks for governor; and the vote for United States Senator, although a few votes less, is 68 per cent and a fraction of the registered vote; and the vote for Congressman, 15,294, is 68 per cent and a fraction, showing that there is absolutely no evidence that, because of an unusual number of blanks, there is reason to believe that stickers were put on and that they had fallen off.

They say that there are a number blanks with crosses alongside of the blank space, and I challenge Mr. O'Connell to show one of them in this evidence. Why did he not call it to the attention of this committee? If he makes it an argument before this committee, saying that that was counted fraudulently against him, why does he not show them, and why does he not describe those ballots? They never did those things, gentlemen.

And when you consider the fact that they have not produced one person, out of the 15,000 who voted; that they have not produced one election official; that they have not produced one police officer; that they have not produced one of his watchers or one of these supervisors, who are election officials appointed by the governor, to show that one of these stickers was pasted on, I say that you cannot give very great weight to that evidence.

Instead of that, they bring in the hearsay evidence of a man who was the manager or assistant manager for Congressman Tague; and who is a bitter partisan, and whose evidence, of course, is colored by partizanship.

Now, I think we ought to take up in turn the question of fraud in the use of money.

Mr. Tague testified—and I had a very friendly regard for Mr. Tague until he gave this evidence—he testified that Mr. Lomasney, who was a great friend of the contestee in this case, had a talk with him in the Quincy House, in which he did not offer him a salary, as Mr. O'Connell says, but he said perhaps Mr. Fitzgerald might be willing to surrender the salary; he did not offer it to him, but he might surrender it to him.

One pages 12 and 13 of the record, I want to call your attention specifically to this question of Mr. O'Connell to Mr. Tague:

Have you given us now in full the conversation that you had with Mr. Lomasney and Mr. Fitzgerald, or did you have another conversation, with either of them?—A. I had several conversations, but this is practically the substance of the conversation.

Mind you, he had said nothing about Mr. Fitzgerald either surrendering or offering the salary to him until then.

Now, refreshing your recollection, did Mr. Fitzgerald offer you the two years' salary?

Mr. Feeney, who was examining that day, objected to that. Mr. O'Connell said:

I am not leading him. I am asking—refreshing his recollection, if that wasn't done by Mr. Fitzgerald.

Then he answered that—

Mr. Fitzgerald said he didn't need the job; the money was no object to him, and asked me if I hadn't had conversation with Lomasney on the subject. I told him I had but that it didn't appeal to me.

Mr. TAGUE. Read down further in the record.

Mr. CALLAHAN. Now, do you suppose that if anything like that was done, Mr. Tague, who was a witness on the stand, would have had to have his recollection refreshed? And do you suppose that if there had been anything said, Mr. Lomasney would have said he was willing to surrender the salary?

Now, that evidence is in there; it is in there over our objection. It is not alleged in their specifications that any such thing happened—and they, of course, are bound by their specifications. They allege that there was money used at the polls; and there is not one bit of evidence, and you will not find it in the record, that one cent was used at the polls, or in the election.

They made no charge that Mr. Fitzgerald, or Mr. Lomasney for Mr. Fitzgerald, said he would surrender two years' salary; that is not in their specifications; and we say that this committee has no right to consider that evidence under the rules, and we call your attention to certain citations in other cases in our brief.

There is some other evidence of the use of money, and that is that a man who had been a representative—a man named John L. Donovan—was offered \$1,000 to be with Mr. Fitzgerald. They did not say that Mr. Fitzgerald offered him any money, but they said that Mr. Lomasney at some time during the year had given him \$1,000.

They called Mr. Donovan in, and Mr. Donovan said that there was absolutely no truth in it; he said that was wrong; that no such thing ever happened. But then they called in two other witnesses who said that at the Parker House bar—which now, unfortunately is not in existence, but where we used to congregate once in a while—they heard him say that.

Now, is that evidence? Is that evidence, when there is the best evidence—that of the man himself who is alleged to have said that, who comes in and says it is not true, and then they bring in two witnesses who come in and say that at some time they heard him say he received that money? That is hearsay evidence.

Mr. LEHLBACH. Do you mean that after the witness made the statement they contradicted him?

Mr. CALLAHAN. Yes.

Mr. LEHLBACH. Well, that is perfectly proper and legal evidence.

Mr. CALLAHAN. For what purpose?

Mr. LEHLBACH. To contradict the witness.

Mr. CALLAHAN. But you do not prove the fact in that way; all that you do is to contradict him when he said that he had not said that he had done that.

Mr. LEHLBACH. That is true; but it is competent for that purpose.

Mr. CALLAHAN. It is competent for the purpose of proving that at some time he said that; but there is no evidence to show that he did

get it. And that, by the way, is the testimony of two disgruntled witnesses who were friends and advocates of Mr. Tague.

Mr. LEHLBACH. I am not speaking of its value: I am only discussing its admissibility and relevance.

Mr. CALLAHAN. It is admissible for the purpose of proving that he said that, but it is not admissible for proving that he got it; and I do not think we are concerned with what a man said; we are concerned with what he did—whether he did get it.

But there was no specification alleging that that thing was true. There was no specification and no claim on the part of contestant that such a thing had happened. That was something that came in afterwards. They did not amend the specifications and bring it in; they thought it was a little laugh and a joke, and would get a headline in the newspapers; and that was apparently the purpose of it, and they did not take it seriously.

We ask you not to consider that, under these decisions of congressional committees, on the ground that it is hearsay evidence, and also, of course, on the ground that they did not allege it in their specifications, and they are bound by those specifications.

Now, gentlemen, sooner or later, in considering this case, you will have come to the question of whether those stickers on the ballot without a cross can be counted for the contestant. You know this camouflage about illegal registration, bloody noses, intimidation, and all that sort of stuff is not borne out by the evidence, although it is put forth very eloquently, because my friend Mr. O'Connell has been talking about bleeding souls, and bleeding nations, for a good many years; and it comes out naturally.

Mr. O'CONNELL. I think you are my equal in that. [Laughter.]

Mr. CALLAHAN. It is camouflage, pure and simple. We have got sooner or later to get down to the facts. And one of the salient things—one of the things that you men will be called upon to determine, and perhaps, gentlemen, one of the things upon which you are going to make a precedent, is whether or not those ballots that contained certain stickers, without the cross, shall be counted.

Mr. RHODES. Let me interrupt you just a moment with a question. Under the law of your State, bearing a cross as indicated—would that be a legal ballot?

Mr. CALLAHAN. We contend that that would not be a legal ballot, without the cross.

Mr. RHODES. I said with a cross.

Mr. CALLAHAN. Oh, with a cross?

Mr. RHODES. In other words, what is the law with regard to the legality of ballots in your State?

Mr. CALLAHAN. That is what I am coming to.

Mr. J. F. O'CONNELL. Do you mean if they put a sticker on it and a cross?

Mr. CALLAHAN. If a sticker was put on it and a cross in any position, that would indicate the intention of the voter, that could be reasonably arrived at—

Mr. RHODES (interposing). Does the law of your State authorize the placing of any cross upon any kind of sticker?

Mr. ELSTON. Not upon the sticker, that is, but the body of the ballot opposite the sticker?

Mr. RHODES. Well, I say, placing a cross on the ballot opposite the sticker?

Mr. CALLAHAN. If you place a cross on the ballot opposite the sticker it will be counted for the candidate named on that sticker.

Mr. RHODES. That will meet the legal requirements of your State, will it?

Mr. CALLAHAN. But our contention is that if a sticker is stuck on and there is no cross, that is illegal and should not be counted.

Mr. RHODES. That ought to be easy to determine. What does the statute say?

Mr. CALLAHAN. This is section 107 of chapter 835, Acts of 1913:

“No names shall be printed on a ballot other than those presented on nomination papers. Immediately following the names of candidates, blank spaces equal to the number of persons to be chosen, shall be provided for the insertion of other names.”

That is, if somebody chose to put another man's name as a candidate, he can either write that in or he can put it in on a printed sticker.

The next section is section 108, which provides:

A cross marked against a name shall constitute a vote for the person so designated.

So our contention is that there are two things that are necessary under our statute: The placing of the name, which, in substance, places the man in nomination, so far as that individual is concerned, and then the physical requirement of marking a cross; and so, although we have no decisions in Massachusetts on that, we have an opinion of Attorney General Pillsbury, given a great many years ago, at the time that the Australian ballot came in; and that has been followed ever since in Massachusetts, to the effect that the name should be either written in or placed in on a sticker, and then a cross must follow.

Mr. LEHLBACH. Well, there may not be any decision in Massachusetts; but until last year we had a similar law in New Jersey, and it has been held there that if a cross is not placed on the ballot the vote does not count. So that is a judicial decision on a similar act, although not in the State of Massachusetts; a cross is necessary to count the vote.

Mr. CALLAHAN. A cross is necessary. Well, I have no doubt of that, and everybody in Massachusetts has admitted it, and it has been taken to be true by everybody; so that nobody takes the trouble—even Mr. Tague did not take the trouble—to go to the Supreme Court and find out.

Mr. LEHLBACH. You must also bear in mind that Congress, in judging the election and qualifications of its Members, is not bound by a State statute in determining what the voters intended to do.

Mr. CALLAHAN. I have no doubt of that. Congress has the power in determining these things; but I believe that a congressional committee, and Congress, too, would usually follow a custom in a State like Massachusetts, or in any State, for that matter; and it was only last year, in the case of Britt against Weaver, that the House said a cross was necessary; and in that case, as I understand it, they deposited a ballot with one name on it, and the statute said a cross was necessary, and when a cross was not there they did not count the

votes. And in Massachusetts, where we have a ballot with several names, you can see the absolute necessity of placing a cross in order to have the ballot counted.

Mr. ELSTON. Well, in the Britt case was it not true that the names of the candidates were printed on the ballot, so that that would present a different set of circumstances from the case where a name is not printed on the ballot and has to be fixed on by a sticker? In the latter case there is an affirmative act of the voter in placing the sticker on, indicating to that extent his desire to vote for that individual; and then the cross would be a further indication of choice which would be employed ordinarily after the name of a person printed on the ballot and presented for his attention. I do not know whether the Britt case was a case in point; it might present a somewhat similar set of circumstances.

Mr. CALLAHAN. Well, I think our case is a very much stronger one than that. In that case they had two separate ballots, as I understand it; and the statute required that that ballot, with only one name on it, should be crossed. Now, if you have two candidates to vote for and you have two separate ballots, the depositing of that ballot ordinarily without a cross would be pretty close, conclusive evidence of the intention of the voter.

Yet the Republican Members of this House said that was not a vote, and they insisted that the cross should be made.

Mr. ELSTON. If there were one single name on that ballot—of course, if there were other names it would not qualify the particular name, and that might carry out your argument; but if there were only one name on the ballot in the Britt case, I should say that was——

Mr. CALLAHAN (interposing). Well, the argument is very much in our favor in the Britt case.

Mr. ELSTON. Well, it depends. On the ballot which contained the name of Mr. Britt there may have been a great many other names, and it is hard for you tell whether that single act of preference as applied to that name would be counted as a ballot.

Mr. CALLAHAN. Well, as I understand it, there was one ballot with one name. Now, whether or not that was the intention, it has always been held in Massachusetts, following the opinion of the Attorney General at the time that the Australian ballot was adopted, that the cross is necessary—two acts are necessary, either writing the name in or inserting it in the form of a sticker, and then the second act, of making an affirmative mark of a cross—to affirmatively mark the cross. Those two things have always been held necessary.

Mr. Tague knew that, and Mr. Tague sent out a great many advertisements, showing—but first I want to call attention to this ballot [indicating].

Here is a sample ballot sent to every voter in the district; and with this ballot there were included several stickers with instructions how to use the stickers; and in every case the instruction said, "You have got to write the name or place the sticker in the blank space, and then mark the cross. Be sure to mark the cross where this hand points after you put the sticker on."

That was his understanding of it then; that was the understanding of the voters, and that was the understanding of every man familiar with the election laws in Massachusetts.

These [indicating] are exhibits, I meant to send them in; but they were misplaced. In these two circular letters [indicating] he says the same thing:

Be sure to mark a cross with your pencil at the right of the sticker and the name.

And in this other place, too, he says:

And mark a cross at the right of the name. I am sending to you inclosed a sample ballot and stickers, with complete instructions how and where to place the stickers or write the name and mark the cross. Above all things, remember that after the sticker is pasted on or a name written in it is necessary to mark a cross at the right with your pencil.

And then in the newspapers, during that same time, gentlemen—to show you that there is no doubt, or that there should be no confusion in the minds of the voters—we have this advertisement:

How to use stickers and vote for Teague: To vote for Teague for Congress you may either write his name, "Peter F. Teague, of Boston, Mass.," on the ballot, and mark a cross alongside, or you can use a sticker. In using a sticker simply moisten the gummed side and stick it on the ballot. Do not forget to place the cross alongside; otherwise your vote will be wasted.

Mr. ELSTON. Is there any agreement between both sides as to the number of ballots which contained the sticker in which the cross is omitted?

Mr. CALLAHAN. No; that has been my contention from the beginning, that that is not in evidence.

Mr. ELSTON. So that you can not make any estimate here of the number of such ballots?

Mr. CALLAHAN. We have our own private estimate, because when we had a recount and were taking that evidence, we were a little lazy and we got a description of those ballots for ourselves, but we did not force a recount of those ballots. We say that the election commission gave him everything, and even if they gave him everything he has not enough to elect him.

Mr. RHODES. I was not here a part of the time, and I ask you to be patient with me if I ask you to help me to fix in my mind the legal requirements of your State. Do I understand you correctly to say that it is mandatory on the party of the statute of your State to indicate the preference of the voter by a cross on the ballot?

Mr. CALLAHAN. Well, I will not say that it is mandatory, because the courts have never said it was mandatory; but the statutes clearly say that it is necessary, and the Attorney General has said that it was necessary.

Mr. RHODES. Well, what is the fact as to whether or not the election boards count a ballot for or against a man where there is not a cross opposite the name?

Mr. CALLAHAN. The election boards will never count a ballot when there is not a cross alongside the name.

Mr. RHODES. What are the facts in this case in regard to the ballots counted in favor of the contestee, as to some of these ballots not having a cross opposite the name?

Mr. O'CONNELL. They were counted——

Mr. RHODES (interposing). Just a moment; let me finish. Were all the ballots rejected that failed to bear a cross—both those for contestant and those for contestee?

Mr. CALLAHAN. Yes; except that the contestee's and the contestant's name would be on the same ballot; that is, if the contestant's name was placed on there——

Mr. RHODES (interposing). Just a moment. It was a fact that their names were on the same ballot, was it not?

Mr. CALLAHAN. With the exception that Mr. Tague's name was put on by a sticker, or written in.

Mr. RHODES. What was the difference, whether it was put on in the form of a sticker or written there——

Mr. CALLAHAN (interposing). There is no difference.

Mr. RHODES. It went on just the same. What I want to get at is, under the law and under the practice in your State, were votes counted either for contestant or for contestee, on which the crosses did not appear?

Mr. CALLAHAN. No, sir; not counted for anybody.

Mr. RHODES. Is that conceded on the part of the contestee?

Mr. CALLAHAN. Undoubtedly.

Mr. RHODES. Then how does the materiality of that cross arise in this case, to the extent that it affects anybody, if there is no disagreement as to that?

Mr. CALLAHAN. Well, there is no disagreement on the fact that they were not counted; there is disagreement as to whether they should be counted. They say that the act of putting a sticker on the ballot, without the cross, should be counted as a vote; we say that is not so, because there are two acts required, putting the name on and then the cross. That is clearly borne out by the statute—or, rather, it is in a decision of our supreme court, and it is in a case cited by the contestant, *Ray v. Ashland*, 221 Mass. 225, where the court said:

“We find no express provision, prohibiting the voter if he chooses such mode of expressing his right, from placing a written or printed slip bearing the name of another person over the name of a candidate, and voting for that person by making a cross in the appropriate blank opposite the name.”

Now, that is a decision of the supreme court of the State; and they say——

“and voting for that person by making a cross in the appropriate blank opposite the name.”

You will notice that they use the word “and.”

Mr. RHODES. Then is it not the fact that the cross is the legal way of indicating the preference?

Mr. CALLAHAN. That is absolutely our contention—that that is the law in Massachusetts.

Mr. RHODES. Well, the contestant disagrees as to that?

Mr. O'CONNELL. Positively.

Mr. CALLAHAN. They disagree, for this reason: I do not believe they disagree as to the law, but they take the stand that Congress has a right to set aside the law in Massachusetts, and decide it as they see fit.

Mr. OVERSTREET. Let me ask you this question, along the line of a question asked you a few minutes ago: Does the contestee claim, and does the contestant admit, that the contestee lost any ballots by reason of the fact that there was no cross attached to those ballots?

Mr. CALLAHAN. That the contestee lost some?

Mr. OVERSTREET. Does it appear in evidence that the contestee lost any votes in the same way that the contestant claims that he lost some votes?

Mr. CALLAHAN. Yes; among those 15,294 ballots you will find a number where the contestee's name is printed along with the name of the Republican candidate, and there is no cross there.

Mr. LEHLBACH. There is no presumption that those ballots were intended to be counted for the contestee?

Mr. CALLAHAN. No.

Mr. LEHLBACH. But there is a presumption when a man places a name on the ticket, that he intended to vote for the man whose name he writes, is there not?

Mr. CALLAHAN. You may say that there is a presumption; but under the circumstances, when it is known and has been advertised extensively that those two things are necessary, who is going to say what was the intention of the voter when he failed to mark that cross?

Mr. LEHLBACH. Have you any suggestion as to what was the motive of the voter in placing the sticker on the ballot without marking the cross—as to why he placed the sticker on the ballot and did not mark the cross?

Mr. CALLAHAN. I can not say positively; it is a matter of conjecture.

Mr. LEHLBACH. Well, have you any suggestion as to what his motive might have been?

Mr. CALLAHAN. Yes, I have this suggestion: In the first place, that is an old Democratic district. As the newspaper men well know, there are only a few thousand Republican votes there. The men there, fathers and sons, have voted the Democratic ticket year after year, until it becomes a sort of religion with them, and they do not like to cut the ticket, a great many of them.

Now, there was a lot of provocation in this case, under the circumstances. Mr. Fitzgerald came into this district. He had represented it years before in Congress, but he was not living there at the time of his election. A lot of people resented that, and yet, with that resentment, gentlemen, and feeling at the time that they were going into the polls, that they might have wanted to vote for Mr. Tague to show that resentment; and yet, when they got into that booth all alone, who is there to say what happened at that moment? Why did they not place the cross on the ballot? If they failed to place that cross there, and knew it was necessary, who is able to say why they failed to place it there?

Mr. LEHLBACH. They had to fix a sticker on the ballot——

Mr. CALLAHAN. They had to fix a sticker; exactly.

Now, there is another reason: Our courts have always held, and I presume they have held all over the country, that that is a mere conjecture; that it is a question of the intention of the voter; and when the courts have been invoked, when it is a question of the placing of the mark, they say, "If you cannot tell by the mark, if you cannot tell by the affirmative act of the voter what his intention was, that vote shall not be counted." They say that when the intention of the voter is left to conjecture, that ballot shall not be counted.

Now, that is the rule in Massachusetts, and I think it is the rule universally in the courts of our country.

Mr. ELSTON. There is no controversy here, in the way in which the ballots were brought out and the stickers put on them, that a man might go into the booth with a sticker already on the ballot?

Mr. CALLAHAN (interposing). No.

Mr. ELSTON (continuing). So that you might see that he came into the booth with the sticker on, but he preferred not to put the cross on the ballot?

Mr. CALLAHAN. No; that would be impossible.

Mr. OVERSTREET. It is very probable—I guess it is true in that district just as in other parts of the country—that some of the people are not educated and can not read and write, and do not understand how to fix up their ballots?

Mr. CALLAHAN. Well, that is not true, for the reason that no man can vote in Massachusetts unless he passes an examination and shows that he can read and write.

The CHAIRMAN. Does it make him do that in English, or in any language?

Mr. CALLAHAN. Makes him do it in English. Now, the contestant laughs; and I am rather surprised that he does, because that is a district that he has represented in Congress. There is not a man who can become a qualified voter in Massachusetts who does not have to first read some section of the Constitution of the United States to show that he can read, and then write his own name, so that they have the signature there before them.

Mr. MCGLENNON. Has the Supreme Court of Massachusetts ever decided as to the legality of a paster without a cross?

Mr. CALLAHAN. No; they have decided that a paster can be put on, and if the paster is put over the name of a candidate and the place is marked with a cross, that counts for the candidate whose name is pasted, because that shows the voter's intention.

Mr. ELSTON. Have you any cases outside of Massachusetts on the question?

Mr. CALLAHAN. No. I think Massachusetts was one of the first States that took up the Australian ballot. I did not look at the decisions of other States. The gentleman from New Jersey says that in New Jersey the courts have decided that a cross is necessary.

Mr. LEHLBACH. I do not know whether that is a reported decision; but I know it has been held by the chief justice of New Jersey, sitting as a recount official. I do not know whether you would find the decision in the reports.

Mr. CALLAHAN. But it would be to the advantage of the contestant to take the case into the courts and make a precedent once for all.

Mr. TAGUE. If I had a million dollars, like your client, I might do so.

Mr. RHODES. How long has the law been in existence in your State requiring the placing of a cross opposite the name of the person intended to be voted for?

Mr. CALLAHAN. Since sometime in the late eighties, I think.

Mr. RHODES. You say that the supreme court of your State has never been called upon to decide the question as to whether or not the placing of a cross is imperative?

Mr. CALLAHAN. Whether they have ever been called on or not, there is no reported decision; and, to the best of my information,

they have never been asked to make one. But at the beginning of this Australian ballot system there was a case something like this, and an opinion was asked by the legislature of the attorney general at that time, and Mr. Pillsbury, who was one of the greatest lawyers that Massachusetts ever produced, gave his opinion, and I have stated that opinion in my brief. It was a case where a man's name was printed on the ballot, and another candidate was running for that office on stickers, as Mr. Tague was in this case; and in that case the attorney general gave his opinion to the legislature, and said that the cross was necessary. The voter intending to vote for the sticker candidate should not only place the sticker on, but should indicate his choice, as he says, by the affirmative act of marking the ballot.

Now, that has been taken as the law in Massachusetts. The Massachusetts Legislature has always followed it. Mr. Tague knew it, as was shown by his advertising. There is not an election board in Massachusetts that will count a vote—a sticker vote—upon which a cross is not placed.

Mr. RHODES. Has there been a recount of the ballots in this case?

Mr. CALLAHAN. Yes; there has been a recount.

Mr. RHODES. What is the difference between the total vote cast between contestant and contestee?

Mr. CALLAHAN. Two hundred thirty-eight votes.

Mr. RHODES. Two hundred thirty-eight. And on that difference the certificate of election went to the contestee?

Mr. CALLAHAN. Yes. I am afraid I will have to ask the indulgence of the committee, because there are two or three things upon which I have not touched.

The CHAIRMAN. Go right ahead, Mr. Callahan.

Mr. CALLAHAN. One of the things is the fact—and Mr. O'Connell knows this very well, because when his case was decided here in Congress some 10 or more years ago he argued the thing very extensively at that time—that is, that the gentleman did not avail himself of the opportunity guaranteed to him under the laws of Massachusetts.

Of course we concede that this committee in Congress can set aside any decision, if they see fit, of a court in Massachusetts, but we say that it was up to him to go before the Supreme Court, as he could go on a writ of mandamus, and open up this whole question and decide the question once and for all; but he has always asserted, gentlemen, openly and brazenly, that he did not care about the decision of a court; that he did not care about the decision of the governor and his council if when they could give a recount—they decided against him—that he did not care about any of those things; that he could come down here to Congress, and he could put this thing over, and he could absolutely get this beat.

Mr. O'CONNELL. We challenge that.

Mr. TAGUE. I challenge that.

Mr. CALLAHAN. That is absolutely true.

The CHAIRMAN. Is that in the record?

Mr. O'CONNELL. No; of course it is not.

Mr. CALLAHAN. What I am saying is absolutely true, and you know it.

Mr. O'CONNELL. You prove it.

Mr. CALLAHAN. My word is better than yours.

The CHAIRMAN. Gentlemen, we can not have these personalities.

Mr. CALLAHAN. I am sorry that that entered into the thing, but those things have been made, gentlemen, and I beg your pardon if I have in any way transgressed this case. I did not like to do it, it is not my nature, but sometimes we get a little hot, and this was a pretty hotly contested case.

They did not go to the Supreme Court. If they were not satisfied, gentlemen, if they were not satisfied with the recount of the election commission—and there is no dispute here that there was a fraud on the part of the election commission in this recount—there is no dispute about that. They make some claims about the actions of the election board at the recount of the primary, but not one word of complaint about their actions on election day. He says—if I may digress for a minute—he says, gentlemen, that the election commissioners went to the vaults, and that it was arranged between them that two should go, one Republican member and one Democratic member, and he says that a Democratic member went there alone. Supposing that is true, gentlemen. What difference does it make? That is not the test. All these ballots, gentlemen, are in envelopes, sealed. These envelopes, in turn, are placed in these leatheroid boxes and then tied up and sealed with wax, and bear the signatures of the officials who last opened them. In one case it would be the election commissioners and in another it would be the ballot-law commissioners, and if those ballots had been opened the seal will be seen by the notaries who heard this case. There is not any evidence that there was a seal broken in this whole case, gentlemen. There is not any evidence here that a ballot was tampered with. There is not one bit of evidence affecting the honesty of any one of those officers, except in these baseless charges and comments made by counsel on the other side.

The suggestion was made “that before you open it you call attention to the fact that the seals are intact,” and I insisted on that. I insisted on that in every case, where a ballot box was opened the condition of the seals should be noted for the record, because, without any basis for it, without any reasons for their contention, they were constantly saying these men were acting fraudulently, and Mr. O’Connell says, “Mr. Callahan’s suggestion is right; states that the boxes are found sealed.”

Mr. Brogna and that the others were found in the same way.

Mr. O’CONNELL. There is no dispute as to the others.

Now, is that not trivial, and is it not frivolous, gentlemen, to try to allege fraud by reason of the fact that a man for the sake of convenience goes to bring some of the ballot boxes, when every one of those seals were intact, and there was not a bit of evidence that they were tampered with.

Now, gentlemen, what I said about the cross in relation to the six is very true in relation to the names written in. We say that every name that was written in where there was a cross was counted for Mr. Tague, not that the name written was Peter F. Tague, of Boston, but in one case, gentlemen, there was the lone word “tango,” not “Peter F. Tague.” In every place where a cross was placed on such a card it was counted for Tague. There is another instance of “Tag” without any first name and with nothing behind the name.

but the cross there, and it was counted. We have crosses in there, gentlemen, that are placed under the designation of United States Senator, but they were counted for Mr. Tague. We have crosses in there in the place for governor, but it was shown—the election commission said that it showed the intent of the voter—that it was intended for Mr. Tague. Every disputed ballot, gentlemen, was counted for Mr. Tague except those ballots where there was no cross. So the whole thing will narrow down to that—whether or not the cross is necessary.

Mr. OVERSTREET. It is alleged in their brief that where the Tague name was not correctly spelled it was thrown out.

Mr. CALLAHAN. We say that is untrue; that every one of those were counted.

Mr. ELSTON. Do you mean to touch on their contention that there is no difference in the way a person votes, so long as his intention is plain?

Mr. CALLAHAN. Yes, I do; I will come to that.

Mr. ELSTON. If you will, before you close.

Mr. CALLAHAN. They base their claim, sir, on two reasons: First, that there was coercion and intimidation. Now, they bring into this case three men to show coercion and intimidation, and those three men were workers and watchers for Mr. Tague on that day. You understand, sir, that there is some evidence in the record about something that was done at the primaries, but I have now reference to the election of Mr. Gibbons, who was one of Mr. Tague's lieutenants, and a friend of his named Mr. McCarthy, and another friend of his named Glynn. Those three men, with a young fellow named Burlen, are the witnesses, and the only witnesses, who were brought in here to show coercion and to show intimidation. There is no evidence, sir, that any voter was intimidated. No voter was produced, no voter was brought in to say he was intimidated—no one was brought in to show that there was intimidation in this case. Mr. Gibbons was the one who said that he knew more than anybody else about this illegal registration, and I call attention to his testimony in our brief. Sir, Mr. Gibbons did not go to the homes of these men the 1st of April or after that to find out whether or not they had lived there on the 1st of April, but he took the names, some names, mind you—he took some names from the street directory and from the telephone directory, although in neither case was the directory nor the telephone book brought in as evidence.

He said he found those names in the book and “I found it in the directory”; and because that name of a man living in Dorchester, which happened to be of similar name, who was not a legal voter—they did not show any connection, sir, between the man in the directory and the man in the telephone book with the man who was named as a voter. They did not show that they were one and the same person, they did not connect that up at all.

Now, sir, there were some witnesses who came there and who testified and we say that if you examine their testimony you will find out clearly that they are bona fide residents and bona fide voters of that district. He calls attention specially to Mr. McCarthy of the Quincy House, and he talks about the palatial residence in Newton. Mr. McCarthy is a citizen of Boston, has a home in Newton, has a home

in Hull. Has he not the right, under those circumstances, when his wife lives with him at different times to live at either place, and has he not the right on the 1st of April, either on the day before or some time before, to go there and remain there some time after, to take his wife to that hotel which he owns and call that his domicile? We say that, under the Massachusetts law, he has that right, he has the right, if he has those three homes, sir, to go down to Hull where he spends several months in the summer. If he goes down before the 1st day of April and stays there and intends to make that his legal residence he has the right to say that that is his domicile. We have our listing on the 1st of April. If he comes to the Quincy House before the 1st of April and he intends at that time to make that his domicile, is not that his right? Certainly it is his right, gentlemen, before the 1st of April to go there and make it his domicile, if he chooses.

And, he says he goes there, because he wants to protect his license. I do not know why he goes there, but he testified that his wife lives there with him. He owns the hotel. He says he goes there to protect his license. What if he does? What connection has that got to do with fraudulent voting?

Now, then, he tells us about these others. There are about 40 or 50 men here, and our contention is that those men were bona fide voters. These men say that they were not. There were a great many men who did not appear but, gentlemen, the summonses were not properly delivered. I want to call your attention to one thing here. On one afternoon, mind you, it was either the 4th or the 5th of March, on the 5th of March, something like 40, between 40 and 50 witnesses, were called to be examined, and my friend, Mr. O'Connell, or Tague or his other half, Mr. Harrington there, gave something like 95—

Mr. FITZGERALD (interposing). No, something like 180.

Mr. CALLAHAN. One hundred and eighty of those subpœnæd—no, it is not 180 it is 89 or 95—gave 89 subpœnæs to one of the assistant United States marshals to bring in—to serve in half a day. Those were given at 11.30 on that day, and under the statutes a man must be given five days' notice. They were given to the United States deputy marshal at 11.30 on that day, to one man, to bring in 89 witnesses.

Mr. ELSTON. One the same day?

Mr. CALLAHAN. On the 5th day, but they had to be served that day, and there was no attempt to serve them on that day until 11.30. They had until night to serve those summonses, and he returned them on the same day.

Mr. ELSTON. As having been served?

Mr. CALLAHAN. No; they were not served.

Mr. O'CONNELL. The returns show what the marshal did with them.

Mr. LEHLBACH. Does service in that case have to be personal?

Mr. CALLAHAN. It can be left at the house and usual place of abode, but a fee must accompany it.

Mr. MCGLENNON. Does the return show service or no service?

Mr. TAGUE. Service.

Mr. MCGLENNON. What do you say on that?

Mr. CALLAHAN. I say the returns show no service.

Mr. OVERSTREET. On all 89?

Mr. CALLAHAN. Not on all 89. You will find on an examination of those that about 84 or 85 of them were returned without service.

Mr. ELSTON. That is their explanation of their accusation that a great many who were subpœnaed did not appear?

Mr. CALLAHAN. That is one of the explanations.

Mr. ELSTON. That they were not served?

Mr. CALLAHAN. Exactly; and they were not summoned correctly, and that these men charged those particular witnesses with not showing up. I want to call to the attention of this committee that two of the men who were served legally, whom we called upon to prove a complaint against the gentleman, Mr. Tague, of his accepting money when Mr. Lomasney made the accusation. Although those men were properly served, and served with a fee in hand, they absolutely and deliberately refused to come in and testify. Where the summonses are served legally, or when they are served in hand, and when those men refuse to come in, it is going pretty far when they accuse other men who were not served properly and who did not receive, in many instances, the summons.

Now, when they could not prove the illegal registration that we—and mind, gentlemen, if they had started early in their 40 days to do this, and then made an attempt four or five days later to bring witnesses in, I would not mind, but all of this was done in the last two or three days of the hearings. They made no attempt before that to bring those witnesses in. They tried to bring them in the last two days, and when they did not get them in they laid these charges recklessly.

When they did not get these witnesses in Mr. Tague took the stand, and Mr. Tague told about every one of these witnesses, of these men who had been, they said, legally subpœnaed, we say improperly. Wonderful memory! I should say he has a wonderful memory, gentlemen, a wonderful memory! He sat down for a day and a half and he read from the evidence, or testimony, gathered by inspectors, by investigators. That is his wonderful memory! He admitted to us on the stand that those things, his testimony, was given from the testimony of investigators; and we say that all of that evidence is improper: that that is hearsay evidence, and a congressional committee, gentlemen, has said that such evidence should not be considered in a case of this kind. It is up to them to get the best evidence, and we had no chance to examine this record or those notes from which Mr. Tague testified, we could not get the names of the men who had gathered that information so that we could cross-examine them and find out whether it was given properly or not; we could not look at the lists that Tague had, and yet he testified from this gathered information, all of it hearsay, all of it clearly inadmissible, and then gave his testimony on 400 or 500 men whom he says are illegally registered voters. Now, we think that a congressional committee is going to insist on getting proper evidence, and I want to call your attention to the form of the question that was given to Mr. Tague at that time.

Mr. RHODES. Did Congress authorize the taking of this testimony, Mr. Chairman?

The CHAIRMAN. Oh, yes.

MR. CALLAHAN. This was the form of question to Mr. Tague:

What information have you in regard to H. H. Cannon, registered from 102 Endicott Street and certified to as having voted in the State election?

He says:

H. H. Cannon, registered and voting from 102 Endicott Street, is a liquor dealer at 148 Levering Street.

"What information have you, Mr. Tague?" and Mr. Tague sits down and reads the information, information that was gathered, he said, in some instances by himself, but in most instances by some of the investigators; and all through there, "What information have you in regard to George D. McNeil?" "What information have you in regard to John F. Leonard?" "What information have you in regard to Frank S. Moylen?" and all that sort of thing. Now, that is not evidence, gentlemen, as to the question of illegal registration. We ask that that evidence be thrown out because it is clearly not the best evidence, and we cite cases which I called to your attention here, two particular cases, in which Congress has held, or one case particularly, in which Congress has held that the reading of testimony like that, gathered by investigators, is not admissible, and so we now ask you to throw that out.

All that thing, gentlemen, went into the question of illegal registration. The question of illegal registration could have been determined before the election—could have been determined by the election commissioners.

I want to call your attention to the fact, gentlemen of the committee, that Mr. Tague might have filed a petition with the Boston Election Commission asking them for the removal of these names, these names that he now charges as being illegally registered, a few days before the election, or some 14 days before the election, as is required by statute; he asked the Boston Election Commission to investigate these names as to whether or not they were illegally registered, and he never went forward with his petition. These men wrote to Mr. O'Connell, they wrote to Mr. Tague, they personally asked Mr. O'Connell and Mr. Tague to come in and show a *prima facie* case, and that is all they had to show. Why, gentlemen, if these men had gone before the Boston Election Commission under the statute which I cite in our brief, it would not make any difference whether those men came or not, if Mr. Tague were to bring a witness who would come in and say "I know this man; I know he does not live there; I know where he lives," and would say where he lived, making out a *prima facie* case, as a consequence of that, that man would be thrown from the list. Every one of those men, if he could have made out a *prima facie* case on his petition before election, if they were illegally registered, would have been thrown from the list; and I say when he did not go forward before the election commission properly and at the time that he filed the petition, he was not sincere; he did not want to go before a properly constituted tribunal to prove his case, but he wanted to go before two notaries who had no power to exclude evidence and to allow the largest latitude in the admission of evidence.

There was constituted a board—not only that, gentlemen, but he could have gone further and held an inquest if he chose, but he did not do it in this case. He could have gone to the Supreme Court

on a writ of mandamus, and he did not do any one of those things. I say to you gentlemen that those remedies were at hand right in his own State where the witnesses were, and, gentlemen, we have a judiciary of which we are very proud. Sometimes they say that some of our judges in certain matters may not be progressive, but I have never heard one thing said on the honesty or integrity of our judiciary in Massachusetts. When those men had those remedies at hand and did not use them there is only one fair inference that can be drawn, and that is that he did not have confidence in his case and that he could not prove these things. He went in a loose and a disordered way before his own notary, where we could not exclude evidence, where our objections would only be noted so that we could prove to this committee in that way that these were illegal voters. I say, gentlemen, that when he did not take these proper remedies it shows a lack of faith in his own claims, and that ought to be seriously considered by this committee.

As to Mr. Tague: I do not know that you want to hear me much longer and am rather tired, but I have not covered the thing. However, remember this, gentlemen, I have just one word regarding colonization. There are 22,000 men over the age of 20 years in this ward 5 where they say there is so much illegal registration—Mr. Lomasney's ward—and there are only 4,700 voters. Now, if there was any attempt at colonization, I mean if there was any desire in that district to register those votes they could have a voting list of 10,000 if they chose to have it. You men have been in politics—all of you have been in politics more or less. This is not a case, gentlemen, where a man has consistently fought another man; this is not a case of where Mr. Tague went out four or six years ago fighting this terrible, infamous thing that exists in that district. This is a case of where Mr. Tague, four years ago, was nominated and elected by the same man against whom he now brings these charges. He is the foster child of the man he now alleges to be a crook and a thief and responsible for all these questions, for this crime of which he makes serious allegations. Mr. Lomasney, whom he now charges and at whose door he lays these serious charges, was the man who was first of all responsible for Mr. Tague's election, because, in a very spirited and bitter contest some four years ago Mr. Tague could not have been elected without the support of Mr. Lomasney. He does not come in here as the consistent enemy of Mr. Lomasney, he comes in here as the disappointed friend of Mr. Lomasney; and, at the time or during all these past two years, gentlemen, he curried the favor of and he was at the door of Mr. Lomasney night and day, wanting his support; and you have got to take that thing into consideration when you weigh his evidence, gentlemen.

He says that in April, 1917, Mr. Lomasney threatened him with defeat. There is a letter, which perhaps it is not admissable as evidence which can be considered by you, because it is extraneous; but the date is important, and the familiar way in which it is written is important when he says, in 1918, "Dear Martin," a year later, a year after the time, gentlemen, that he said that Mr. Lomansey threatened him—"Dear Martin"; and it is signed "Peter"; and he wants to know the name of a contractor, because he is going to be able to get in on building some cantonments. Now, gentlemen, that

is not perhaps at issue here, but the date of it is at issue to contradict Mr. Tague, to contradict the evidence of the contestant in this case, because when he says that he threatened him in 1917, when he has no evidence in black and white, when he is in collusion with this man whom he now charges, or he is at any rate as friendly as any two men possibly can be. You have his own evidence, as you will see in an examination of his testimony where two weeks before the primary, two weeks before he went to this terrible monster, Mr. Lomasney, and asked him for his support—well, now, gentlemen, if he had consistently opposed this terrible man, if he had not received the same favors against which he now complains, I suppose that you ought to weigh this evidence and give great weight to it, but when you consider the fact, gentlemen, that he was constantly currying the favor of this man, that two weeks before the primary he went and asked his support, that only a short time before that he was writing familiar letters to him, I think that you can not lay great weight upon the testimony of Mr. Tague.

Mr. RHODES. This gentleman, Mr. Lomasney, to whose prominence you have referred, how is it that he is a man of such importance and consequence to a man seeking political preferment?

Mr. TAGUE. He is the whole story down there.

Mr. CALLAHAN. He is the man whom this morning Mr. O'Connell charged with every conceivable crime under the sun.

Mr. RHODES. That hardly answers my question. What do you say as to the importance of this man? Is that true?

Mr. CALLAHAN. The assertions of Mr. O'Connell are absolutely untrue.

Mr. O'CONNELL. Why do you not answer his question?

Mr. CALLAHAN. It is true, of course, and everybody will admit that Mr. Lomasney has tremendous influence.

Mr. RHODES. How does he obtain that influence?

Mr. CALLAHAN. Well, I want to tell you this: Mr. Lomasney has been a member of the board of aldermen. Years ago he was a member of the Massachusetts Senate; he was a member of the House of Representatives for 14 years; he was a member of the Constitutional Convention.

Mr. RHODES. What is he now?

Mr. O'CONNELL. He is a political boss.

Mr. CALLAHAN. I think he is a great citizen, a citizen who Gov. McCall two days ago said was one of the biggest men in Massachusetts, and he said that when the history of the Constitutional Convention, which we have just ended there, shall have been written, Mr. Lomasney will stand out as the biggest man in the whole convention.

Mr. RHODES. Does he occupy any position in the party organization of that city?

Mr. CALLAHAN. No official position except he is on the State committee.

Mr. O'CONNELL. He is boss of the ward.

Mr. OVERSTREET. Mr. Callahan, you would call him a leader where they might call him a boss.

Mr. RHODES. All you do know is that his influence is worth a great deal.

Mr. CALLAHAN. And Mr. Tague thought it was, because he was always asking for it.

Mr. ELSTON. Mr. Callahan, there was some statement made about the difficulty in examining witnesses brought in by the Fitzgerald interests there at the review of the primary election, or the final election, I have forgotten which.

Mr. CALLAHAN. None at the election; it was before the ballot-box commission.

Mr. ELSTON. Will you dispose of that? It is very important to go into that matter of the refusal to permit the Tague interests to cross examine the witnesses brought in at that hearing. They made quite a point of it.

Mr. CALLAHAN. Yes; they made quite a point. The ballot-law commission had certain issues before them and they confined themselves absolutely to those issues. The question of illegal registration was not in issue, but Mr. Tague and Mr. O'Connell broadcast through the newspapers of the city that here were men who were voting under the names of dead men, and they said that these men did not exist. The board called these men in and showed that they did exist. That was about the fifteenth day of that hearing.

Mr. OVERSTREET. What is your comment upon the inference we might draw here that the contestant expects us to review possibly the legality of the primary election; and if that is settled by us presumably giving him the seat, have you any comment to make on that as to our right to go into it, or say what we might do if we decided in favor of the contestant along that line?

Mr. CALLAHAN. I do not say that Congress has not the right to go into that. At the time we contended in our answer, in our specifications, that that did not come within the purview of a congressional committee, but I am not so sure that it does not. However, at any rate, our argument on that is this: That here was a primary where a recount was had before the Boston Commission, a bipartisan commission, with a unanimous finding in favor of Mr. Fitzgerald; and that their findings were reviewed by the ballot law commission, another bipartisan board appointed by the governor of Massachusetts. That was a unanimous decision in favor of Mr. Fitzgerald. Then, a petition was brought under that statute which gives them the right of inquest, which they did not press, to show that their claims were valid ones, or that they had any faith in the contentions or assertions that they made. We do not believe, sir, that this congressional committee is going to say that a recount board of Boston is a dishonest recount board, and that they are now without evidence to show that they are; and there is no evidence in this case. There are some assertions by my Brother O'Connell, but we do not believe after this case has been reviewed and a unanimous finding made by another board, a bipartisan board, appointed by the governor with no connection between either one of these candidates, that this congressional committee is going to say that the recount board, or the board of review, is a dishonest, or a dishonorable board. That has been the trouble with this case.

If in the case of the election commission they found against this man, they said, "Why, they are dishonest; they are corrupt." Then, when they went a step further and they went up to the ballot-law commission and the ballot-law commission found against them, they said they were corrupt; and the governor who certified it, and the

governor who appointed supervisors at his request was corrupt; and that has been the process all the way through, that one after the other, when the finding was against him, that each one of them were corrupt. Now, I do not believe that unless you have substantial evidence and conclusive evidence against the integrity and the honesty of these business gentlemen that you can go behind the findings, the unanimous findings, of those boards. We have lived in Massachusetts and have been in politics, more or less—Mr. O'Connell more, Mr. Fitzgerald less—they were in it more and I was in it less; but we know the integrity of the boards there in Massachusetts, and we know the integrity of our courts; and we know the character of our governors; and we know that the men who found against them on the facts as they appeared to them have been reappointed, the chairman of this election commission only a month ago was reappointed without objection on the part of the men, and the man who is chairman of the ballot-law commission was reappointed the other day by Gov. Cooledge without objection. That is the character of officials these men assail.

Mr. OVERSTREET. It would not be any imputation on their honesty if we are governed by different rules of evidence than the rules by which they were governed. For instance, if we decided that we intended to go into the matter of intent in a different way from what they went into it, I do not suppose it would be any imputation against them when they were governed by Massachusetts law.

Mr. CALLAHAN. I think the only question of intent comes in election. I think it has been decided. I think the ballot law commission in their findings shows that conclusively.

Mr. LEHLBACH. As far as the jurisdiction of those election committees goes, it was strictly limited to an investigation of the ballots. They had to follow State statutes as they are interpreted by courts and the Attorney General, and anything outside of just that limited function they did not pass on at all.

Mr. CALLAHAN. Except that in this case the boards in examining the ballots said that they were going into the intent of the voter, and they counted everything that was there as they believed the voter intended to vote.

Mr. RHODES. You complained awhile ago at the manner in which the testimony was taken, in that the contestant took his testimony before notaries public, and that he failed to go before the proper tribunals. Now, assuming, of course, that the contestant took his testimony in accordance with the law, the rules prescribed by the Congress in such cases, are you in a position to urge on this committee to accept your objections in that regard in the light of the fact that perhaps the contestant followed the rules laid down by Congress?

Mr. CALLAHAN. Only that I say great weight should be given to his failure to take it before those several boards. Congress has the right, we concede the right to Congress, to go over the heads of the court and lawyers.

Mr. RHODES. Well, does the gentleman hold that the contestant disregarded the rules laid down by Congress in such cases?

Mr. CALLAHAN. Yes; because he gave a lot of evidence that was hearsay.

Mr. RHODES. That would be a question of procedure arising in the court in which the testimony may have been offered, but that would

not be a matter that was not provided for by the rules applying in this case.

MR. CALLAHAN. If he were in a court of law, the judge, of course, would decide which evidence was admissible, and which was not. Now, it was taken before this notary, and the notary could not decide as to whether or not the evidence was admissible.

MR. RHODES. We all understand, as lawyers, that that rule did not hold good in any case, but the only remedy you would have would be some evidence of your objections and letting the committee decide whether it was competent testimony.

MR. CALLAHAN. We objected, and the objections were noted.

THE CHAIRMAN. Mr. Callahan, are you nearly through? It is getting rather late and Mr. O'Connell has half an hour in closing.

MR. CALLAHAN. I am all through; I will end my argument to the committee at this point.

THE CALLAHAN. We will hear Mr. O'Connell. He will have half an hour.

MR. O'CONNELL. Mr. Chairman and gentlemen of the committee, I feel that at the outset it would be well for me to dispose of, in order, some of the suggestions made by Mr. Callahan in his objections.

In the first place, he gave the committee an impression that Mr. Tague filed his claim for a hearing before the ballot law commission, and that Mr. Fitzgerald agreed to it. The petition, as they know, appears in the evidence, and it will show that Mr. Fitzgerald did not agree that we should go on, but that he said through high-priced counsel—he thought Mr. Homer Albers pleaded for one full morning with the ballot law commission for them not to take it up—from 9 o'clock promptly until 2 p. m., Mr. Homer Elbus urged, by every method that he knew, that the case should not be considered by the ballot law commission. So much for that.

He has referred to the inquest. The facts are these, as the record discloses: Mr. Tague asked for an inquest. You will find it on page 61 of the record, and Mr. Tague went before Chief Justice Bolster. Mr. Fitzgerald was represented by the same Mr. Homer Albers. After a hearing in chambers that prevailed for two days, Chief Justice Bolster said to Mr. Albers, the attorney for Mr. Fitzgerald: "I will order this inquest, but I am to be the boss of it; and you are not to say anything about it at the present time, because I do not want political advantage taken of it by either side. The influenza is on and it is dangerous to hold any crowded meeting." You will find that in the record. Mr. Tague exhausted every possible method permitted to a citizen to get the inquest. So much for that.

In reference to the illegal registration: He says we have not exhausted our remedies in reference to that. That is not in accordance with the facts. The facts are, as shown on pages 419, 401, 406, 422. We were in the middle of a hearing at the Statehouse and were notified at 1 o'clock that they would hear us at 2 o'clock. We notified them that we could not be in two places at the same time, and after that they never gave us a chance. Mr. Wasserman says that he met me on the street and that he told me that he was ready to go on. He said he met me on a certain day, the Friday before election, as the record will disclose; and the Friday before election I was here in Washington, as the evidence shows. I call your attention now to the fact that reference was made to Mr. Fletcher, the Republican

candidate. This is a fact that should have been brought out in my previous statement. Hammond T. Fletcher is a member of the Hendricks Club. The Hendricks Club is a Democratic organization. Hammond T. Fletcher was a Republican candidate for Congress. The candidate for the Republican ticket was obtained by Lomasney, and Lomasney was back of the other. The Hendricks Club furnished the Democratic candidate and it furnished the Republican candidate, and even the great Democratic organization of that State gave way to the great power of this man Lomasney. He was the whole story down there, he is a complete boss, not of the Democratic party alone, but of the Republican party and any other kind of a party that may temporarily show its head for political exigency.

This morning I neglected to call your attention to the fact that the chairman of the Republican committee, the Republican State committee, in a letter addressed to the people of Boston—you will find Mr. Bacon's letter at the end of my bill, I will give it to you in a minute—called attention to the fact that names of soldiers and sailors were being put upon the list and called to the citizens of Massachusetts to take precaution on election day to see that the scandals of the primary by which Mr. Fitzgerald got this vote on the names of dead men and soldiers at the front should not be repeated, that the good name of Massachusetts was at stake. When the chairman of the Republican State committee finds it necessary to come out and in a printed published statement issued and paid for in all the papers, I want to give you gentlemen to understand that it was a very serious situation. That letter is found on page 357 of the record.

My brother quoted part of Mr. Tague's testimony in reference to the salary and rather tried to dispose of it. He should have read the whole of it. Let me read the part that he did not read. Mr. Tague answering the question:

I asked Mr. Fitzgerald why he was a candidate for Congress. Mr. Fitzgerald told me that Mr. Lomasney had asked him to be a candidate for Congress, and that he was not seeking the position; that he felt that he was the right man and only man who could represent the Tenth Congressional district in Congress at the present time. He said that he wasn't in need of the money that went with the job, but that he wanted to build up the port of Boston and that I would be taken care of, that he had an understanding with Mr. Lomasney that I was to secure a position in city hall if I was to retire from the contest—

And then about the pay, that Fitzgerald offered the salary—

MR. RHODES. Were there any witnesses there, regarding the giving up of the salary?

MR. O'CONNELL. No; Mr. Lomasney never talks in the presence of a third party. That is one of the political axioms for which he is famous in Boston. He will meet you in the middle of the street, he will discuss with you on the corner of the street, but he will get right near the curbstone where nobody can hear. No two men are allowed in the room with him at the same time when he is discussing anything. He is a very, very skillful gentleman and always takes pride in the fact that they have "nothing on me, nothing on me." That is his expression: "Can't get anything on me."

MR. RHODES. Mr. O'Connell, do you assert that this boss financed the Republican campaign and also financed Mr. Fitzgerald's campaign?

Mr. O'CONNELL. No. The first part of it we do. We do claim, and Mr. Lomasney admitted that he did pay the bills of the Republican candidate. Of course, that was done in order to prevent the Republican votes going to Mr. Tague. The second part of that: Mr. Lomasney testified that he would not carry any candidate who could not pay the freight. He carried Fitzgerald, because he had made millions in Bethlehem steel and Fitzgerald could pay the bills. That is what the evidence discloses.

Mr. RHODES. What evidence is that?

Mr. O'CONNELL. That is the testimony of Mr. Lomasney himself.

Mr. CALLAHAN. Where is it?

Mr. FITZGERALD. Point it out.

Mr. CALLAHAN. Do not stop at talking about it, point it out.

Mr. O'CONNELL. Mr. Callahan has seen fit to pass off quickly, if you please, the testimony of Messrs. Green, Giblin, and Mr. Donovan. Mr. Green, whom he was discussing, has been a member of the senate, a member of the lower house, was a member of the city council. Mr. Green states absolutely that Mr. Donovan used the thousand dollars. Thomas J. Giblin, the other witness, is also prominent in political life in Boston, a former member of the legislature, alderman of the city of Boston, he would know, Mr. Chairman, he would know more about what Mr. Donovan said, and he would be more likely to know about the truth of these things than these men, all associates of Mr. Donovan. He would know the facts of Mr. Fitzgerald and Mr. Lomasney. How would their testimony impress a jury? Would it be testimony coming from you gentlemen who did not know them, you gentlemen who are strangers, or is it the disinterested testimony of their associates? They are not there willingly, not one of them. They were all summoned. Donovan was asked if he had had a thousand dollars. Donovan did not admit it, because it necessarily imputed a wrong to him and he got away from it following the usual promptings of human nature to avoid trouble. There is no effort on the part of the defense to contradict a single line of their testimony.

Now, my brother, let me pass on quickly to the next feature that you adverted to, about advertising in the Boston papers. Mr. Tague had paid advertisements asking the people, and notifying them to be sure and write a cross just as he has said. You and I have had political experience since. We all know how hard it is to educate a great constituency to do a given thing. It is the most difficult thing that Members of Congress have when they are trying to be elected, the most difficult thing, even in a small town election. I will venture to say that there are thousands of votes lost because the voters do not comply with all the little regulations. Here is a district composed of the new element which arrives here. It is a large Italian constituency, a Russian Jew constituency, a lot of Poles, Lithuanians, Ruthenians, even the Chinese—the Chinese up there are voting. Now, think of those people who vote all buying a paper printed in English and all of them being influenced by these adds. My brother said it will be conclusive. The virtues that we want to impress upon others do not sink in by being called to their attention once. If they did, advertising would not be what it is to-day. That is the way in a political campaign. It is necessary to repeat over and over again all

the various things that we want to impress upon the voters. We say again, that it is wonderful that Mr. Tague did what he did in this cosmopolitan district of many denominations, of many faiths, of many colors, from all climes—that he went to the polls and did such a remarkable piece of work has been exhibited in this election; and if a few of them did not comply entirely with the law that is no reason why that voters should not be disfranchised.

The committeeman from New Jersey asked Mr. Callahan if he had any suggestion as what the presumed would be thought if a man placed a sticker on the ballot—what is the presumption; what is the presumption that any jury would find; what is the presumption of law? The presumption is this: That the man took the sticker up, read it, and it reads: “For Congressman, tenth congressional district, Peter F. Tague, of Boston.” He sticks that on and he puts it on the ballot and he states what he wants done. He is voting, and the presumption is that he intended to vote for the man for whom he put the sticker on. Mr. Callahan tried to say that when a man got in there and hated to vote the regular candidate he puts the sticker on, but being ashamed of his action, and finally overcoming the qualms of his conscience at putting the sticker on refuses to put the cross on, but would not vote for Fitzgerald. The presumption is that he intended to do exactly what the sticker says: “Peter F. Tague, of Boston, for Congressman, tenth district.”

Mr. RHODES. May I ask the gentleman this question?

Mr. O’CONNELL. Yes; I would be glad to have you.

Mr. RHODES. In such a case as the gentleman has stated there, would the laws of your State hold that that was *prima facie* evidence of the intention of the voter to the extent that the ballot should be counted by a candidate whose name appeared on the sticker?

Mr. O’CONNELL. We have never had that exact question raised, Mr. Rhodes. There has been dicta and the dicta are rather unsatisfactory on what they say about this, although in North Carolina the Supreme Court, in the *Britt v. Weaver* case, did decide that the cross was not necessary. Mr. Callahan has quoted the minority decision of that committee of the last Congress, but the majority report held in accordance with the Supreme Court of North Carolina; and for reasons that some of you know, that happened in the last two or three hours of Congress, something happened. What did happen, of course, really did not reflect what the election committee thought. They had gone into it very carefully and their report is rather exhaustive. Their committee found that it was the intention of the voter above all things that should govern.

Mr. CALLAHAN. That is not the question, however.

Mr. O’CONNELL. It is the question, and that is what I am talking about. It is the intention of the voter that should be the governing factor.

Mr. ELSTON. Do you think this record, as it is made up, is sufficient in every particular for this committee?

Mr. O’CONNELL. Yes, Mr. Elston, it is, for this reason: Mr. Callahan spent much time in trying to dispose of this question, and let me make it clear just what happened, and what the record does disclose. When we got to the question of the ballots it was agreed by the committeemen, by the election commission, that it would not aid them very much to bring the ballots up to the Federal building, so

at their suggestion we adjourned to the election commission's office. There, Commissioner Finigan, whom we have referred to before, refused to go on with the case because the summons read that he was to testify at the Federal building. That delayed it for a few days. When we started—you will note, starting page 190 and right down, that I described the ballot. For instance, at the top on page 206 it says: "Mr. Finigan"—the way the thing would go on would be, first, I would call for ballots. He would take the ballots out, look at them, and displaying them to us would say: "Exhibit 103 counted for Tague; Exhibit 104 not counted." When he would come down to "not counted" I would then describe it so it would be taken down in the record, and you will find that I do so on stickers not crossed.

Mr. ELSTON. You maintain that as to every ballot of the 300 of that particular description you made that comment so that the record is full and complete in that particular?

Mr. O'CONNELL. No; it is not full and complete in that particular, but is full and complete from the time I started. It is all sufficient for this case. If I had started it in the very beginning it would be overwhelming, but as it stands to-day it is more than sufficient. Mr. Callahan says he objected. He did not object. There are no objections in the record showing that he objected. Once in a while he would say: "That is a comment, that is not admissible." but at no time did he question my description; and you can imagine, gentlemen, this hostile Finigan answering, and he says here: "I am not a commissioner, I am here as a witness," on page 194, when we were starting in on them.

"Mr. Berman. As soon as the commissioner who is reciting all these takes a little rest we will proceed. I summon you to the stand.

"Mr. Finigan. I am not acting as commissioner. I am acting as a witness here."

You can picture him snarling that out and sneeringly saying so; and whenever I made those objections you can very well rest assured, gentlemen, that if I made an incorrect description that same Finigan would have commented on it and done it in a very determined, forcible, clear way that would not be misunderstood and I would be proclaimed as a liar and somebody misrepresenting the facts.

Mr. FEHLBACK. Does the record disclose the number of ballots in the congressional district which bore a Tague paster, but no cross?

Mr. O'CONNELL. Counting it up, it does.

Mr. ELSTON. Have you a summary in the record?

Mr. O'CONNELL. No; there is no summary in the record of that.

Mr. ELSTON. Now you come right down to the very crux of this whole business. I think that is one of the most important features of this whole thing. It is narrowing down so far as the big issue is concerned, right down to this proposition of this Tague sticker. Of all the questions that have come up to-day, I would be willing to say that that gets down to the big issue in this case. Now, do you contend that the statement of Mr. Callahan that a display of those ballots here would change the conclusion that he drew from the record covering comments on the ballots?

Mr. CALLAHAN. I count that as far as I understand it to be this: He says my comments are not true. I say that a display of those ballots will show to you that every one of my comments are not only

true, but that they are exactly fair to the contestee. I made my comments as brief a description as could be in order that there would be no confusion; and you will find by a display of those ballots, Mr. Committeeman, that everything that I have said is perfectly within the realm of truth, and fair to everybody.

Mr. OVERSTREET. You got that, of course, in the record expecting that that record would be sufficient, then, for the purpose of passing on that disputed issue?

Mr. O'CONNELL. I did not in the beginning.

Mr. ELSTON. Why not, what would we have in the record if you did not?

Mr. O'CONNELL. It had not occurred to me, until we had gone 40 or 50 or 60 ballots and they began to intimate, in the manner in which they did, that they were going to bring it to Washington, that I decided the record should be made from that point on so as to show the exact situation so that you could decide it as it is, and you can decide it as it is.

Mr. ELSTON. How would you have expected us to have decided it otherwise except of those ballots. There has been a good deal said of intrigue, colonization, and the part played by Mr. Lomasney, but the whole thing narrows itself down to the intention of the voter. I thought you asked me that. I thought a while ago, and I still think the same thing, that I believe that we show in the evidence that we have presented to you sufficient to disregard the vote of that ward. Which would be sufficient, anyway.

Mr. O'CONNELL. Which would be sufficient, and you could disregard the vote of those three precincts. You are bound to disregard that; you can not do otherwise than disregard it. It is overwhelming, it is uncontradicted, even uncontroverted. You have that. Then, on top of that, you have the right to decide. After we had proceeded always and I saw how they were trying to control it, I decided that I should make my comments show the situation, so that you should have all that eliminated. So I described each one of these ballots, and you will find them there page after page, and not an objection from the witness and an objection from the counsel. You will find it page in and page out. Now, that is my explanation.

Mr. ELSTON. You are not going to lay any particular emphasis on any one of these various specifications, but are going to rely upon all. You do not rely upon any one and stress it as probably the big point in your case?

Mr. O'CONNELL. No. I feel that the case is so permeated and so interwoven with the various features that you gentlemen can take any one of these four or five things I have indicated to you and can decide the case on any one of them.

Mr. RHODES. I have another question I would like to ask of counsel, if you please.

Mr. O'CONNELL. Certainly.

Mr. RHODES. Counsel on the other side, as I recall, stated that the majority of Mr. Fitzgerald is shown by the election returns to be 238.

Mr. CALLAHAN. Yes.

Mr. O'CONNELL. Yes.

Mr. RHODES. Do you agree that that is correct?

Mr. O'CONNELL. Oh, yes, we agree on that; we state that in our brief.

Mr. RHODES. And, as I understand, that was on a recount of the ballots?

Mr. O'CONNELL. Yes.

Mr. RHODES. Did the recount show a difference?

Mr. O'CONNELL. Oh, yes. The unofficial count, Mr. Rhodes, showed that Mr. Fitzgerald had won by approximately three hundred and something; I think it was 340.

Mr. RHODES. Second count, I say the official count, after the recount, reduced his majority, as shown by the previous returns?

Mr. O'CONNELL. Yes.

Mr. RHODES. Yes; but he received his certificate of election?

Mr. O'CONNELL. Yes.

Mr. RHODES. On the——

Mr. O'CONNELL. Basis of that reading.

Mr. RHODES. On the returns of the board of election commissioners or after the recount had been made?

Mr. O'CONNELL. Under our statutes they do not give a certificate of election until time has been given for a recount to be asked.

Mr. OVERSTREET. Until after the time in which it could be asked for has elapsed.

Mr. O'CONNELL. Election is on the 5th of November. Our law provides that a man who desires a recount must petition within 48 hours.

Mr. RHODES. You hold that if every ballot on which was pasted the sticker had been counted voting the name of Mr. Tague he would have had a substantial majority over Mr. Fitzgerald?

Mr. O'CONNELL. That is our position, exactly.

Mr. TAGUE. The stickers without the cross.

Mr. O'CONNELL. Without the sticker, of course.

The CHAIRMAN. Can you tell us how many ballots were cast in that congressional district without the cross?

Mr. O'CONNELL. Bearing a sticker, but not marked with a cross?

The CHAIRMAN. Yes.

Mr. O'CONNELL. Yes. According to the record which I have made up, we have sticker votes cast for Tague that were not counted 242.

Mr. RHODES. How many of those sticker votes had opposite them a cross?

Mr. O'CONNELL. None of those. There were 7,000 that had the cross. Yes, 7,000.

Mr. RHODES. That is my question.

Mr. O'CONNELL. How many voted the cross and how many did not. I believe I have answered both questions.

Mr. OVERSTREET. That gives you a margin of six.

Mr. O'CONNELL. On that alone. Then on top of that you had votes counted for Fitzgerald which should not have been counted, where Tague stickers were on the ballot.

Mr. CALLAHAN. That is simply an assertion. The evidence will not show that.

Mr. O'CONNELL. My answer to your question is this——

Mr. RHODES. Well, suffice it to say then that you have stated figures in your brief on that question, have you?

Mr. O'CONNELL. Oh, yes, right on the first page: "In the election following Mr. Tague received 6,997 votes and Mr. Fitzgerald 7,227 votes." Now every one of those 6,997 votes were about 90 per cent

sticker votes and 10 per cent names properly written in with a cross after them.

In addition to those sticker votes that we did not get there were approximately 40 names written in "Peter F. Tague of Boston" and no cross. That is additional. Mr. Callahan made some statement that such names as "Tango" were counted for Mr. Tague. Of course it is all right to be facetious, but there was no such name as "Tango" written. Mr. Tague's name is spelled T-a-g-u-e. The man in that case put the "u" before the "g" and what Mr. Callahan calls an "o" is an "e," the man spelling it "T-a-u-g-e" instead of "T-a-g-u-e." And "Tag," that they counted it for "Tague."

Mr. RHODES. He claims they were counted.

Mr. O'CONNELL. We still assert—you will find it on page 192, Exhibit 458—Peter F. Tague, not counted.

Mr. CALLAHAN. There was no cross.

Mr. O'CONNELL. Richard F. Tague, no cross.

Mr. RHODES. Now, do I understand that the record shows that those ballots on which the cross did not appear were rejected?

Mr. CALLAHAN. Yes, on both sides.

Mr. O'CONNELL. There were no stickers on theirs.

Mr. CALLAHAN. I am not talking about stickers. I am talking about the cross.

Mr. RHODES. Suppose the cross should not have appeared opposite the right name on the ballot—I take it the cross is one of the material things.

Mr. ELSTON. In the Britten case they show there was only one Britten ballot, so it might be considered that the act of putting in a Britten ballot was an indication of preference for him.

Mr. RHODES. I was trying to get at the real method of counting the ballots.

Mr. CALLAHAN. For instance, here is the ballot. When you come down to the place for Congressman, if there is no cross put against it, it is not counted.

Mr. RHODES. That is what I mean.

Mr. CALLAHAN. We mean when the voter puts on a sticker and the sticker has on it "For Congressman" he has committed an overt act evincing his intention.

Mr. RHODES. And your idea is that that should control even in the absence of the cross?

Mr. CALLAHAN. That is our idea exactly.

Mr. MCGLENNON. Do you consider that the circumstance that Mr. Rhodes just described, the placing of a paster bearing the name "Peter F. Tague" with no cross after it, an affirmative or a negative act of the voter?

Mr. O'CONNELL. I say the placing on of a paster saying "Peter F. Tague" is an indication of the intention of the voter to vote for Mr. Tague.

Mr. MCGLENNON. It is an affirmative act.

Mr. O'CONNELL. It is an affirmative act.

Mr. MCGLENNON. I would like to ask Mr. Callahan the same question.

Mr. CALLAHAN. I do not consider that an affirmative act. We have in our courts a decision in a Massachusetts case which uses the language "The affirmative act of making a mark."

Mr. MCGLENNON. Leaving out the decision of the court, is it a negative act or an affirmative act?

Mr. CALLAHAN. I do not think the voter goes quite far enough.

Mr. MCGLENNON. Does he not do something to vote for Mr. Tague?

Mr. CALLAHAN. But not here.

Mr. MCGLENNON. He did something.

Mr. O'CONNELL. And there is no dispute that he did something. Our courts have held that the election laws must be construed with the utmost liberality in ascertaining the express intent of the voter. I want to call attention to the case of *Shepard v. Sears*, before the committee on elections of the house of representatives, Massachusetts State Legislature. House document No. 700, February 4, 1890: 1890:

It has been the tendency of all courts and legislative bodies to construe election statutes with the utmost liberality in favor of the ascertainment of the expressed will of the voter, and whenever the statutes do not most explicitly declare that particular informalities shall avoid the ballot their provisions are considered **directory**.

I also want to call your attention to the case of *Ray v. Ashland* (221 Mass. 223), quoted in our brief at page 22. Mr. Callahan has tried to discredit that case, but the fact is this. The court said:

The rule is that if the intent of the voter can be fairly determined effect shall be given to that intent and the vote counted in accordingly.

They went on to state——

Mr. RHODES (interposing). What was the question involved in that case? You both agree, in order to define the issue, the legal principles, gentlemen, both sides have agreed that the supreme court of that State is silent as to the effect of no cross appearing. Now, then, in the case you cite what is the point?

Mr. O'CONNELL. The point is this: The statute is silent in reference to where a sticker shall be placed; and the supreme court——

Mr. RHODES (interposing). Is it silent as to the cross?

Mr. O'CONNELL. That was not the point in issue in that case.

Mr. RHODES. What was the point?

Mr. O'CONNELL. Where the board of registrars failed to count stickers because they were not put in the right place. The court said a man could go in and put a sticker any place he pleased if it showed his intention; and whether it is placed in the proper place, or in the place for the governor or attorney general or Senator, if that sticker is put on it must be counted.

Mr. CALLAHAN. If there was a cross.

Mr. O'CONNELL. There was no question of a cross at that time; that was not the issue. The issue was whether or not a sticker should be counted, and the court said to count it wherever it is if you can find out the intention of the voter.

Mr. CALLAHAN. If there is a cross.

Mr. O'CONNELL. The cross matter is pure dicta, because all ballots at that time were crossed. Let me pass on to the next. My brother

made some talk about the fact that two of those witnesses who were summoned by him did not show up, and that is true, two voters who lived outside of the county of Suffolk were summoned. The law does not oblige a man to come outside of his county, and these two witnesses with whom we had nothing to do sent a letter in, it is part of the record, calling attention to the fact that they had not been properly summoned; that if they were properly summoned they would be glad to come. Now, that disposes of that. See how they are straining at the little gnat! They spoke about giving 89 summonses to the marshal to deliver in one day. The United States marshal, with half a dozen deputies in taxi cabs in the city of Boston, will soon get rid of the summoning of 89 witnesses—it is not a Herculean task.

Mr. CALLAHAN. Eighty-nine were given to one deputy.

Mr. O'CONNELL. The deputies divided them up, as the returns will show; and my brother knows that under the United States law witnesses are paid when they appear in court, and we were trying this under the practice laid down by Congress. Now, the contention even that Mr. Tague went to the trouble of paying for 500 witnesses summoned by deputy sheriffs, paying them \$2 for trying to bring a witness into court, throwing money to the winds, because these gentlemen representing the other side would not allow those witnesses to come in, or for some reason did not have them appear.

My brother took up the matter of the testimony of Mr. Tague, intimating that the testimony was gained from information, and should not have been received, that it was the hearsay evidence of Mr. Tague after everything was through, and it was the last day of his 40. If he had told an untruth about a single one of those men about whom he testified he would have been called to task for it, the witness could have come in and could have proven that what he said was wrong.

The CHAIRMAN. Mr. O'Connell, you have had 40 minutes. Are you about through? It is getting rather late.

Mr. O'CONNELL. Have I? I thought I started 10 minutes past 4.

The CHAIRMAN. No; it was 10 minutes of four.

Mr. O'CONNELL. I will be through shortly.

The CHAIRMAN. We do not want to cut anybody off, but at the same time we must get through.

Mr. O'CONNELL. I have just one or two more remarks to make. Mr. Callahan spoke about colonization, that it could have been increased. It could not have been. You take the colonization figures, population figures, and by no possible way could that colonization be increased. Every precaution is taken down there, and every method is exhausted. You can facetiously figure, then turn and twist and torture the figures, but it won't make any more colonization down there.

My friend talked about Mr. Lomasney, and why? He was a great citizen! This fact remains, and the record shows, he states to the committee through his counsel that the reason that he was against Peter F. Tague for Congress, the principal reason was that when President Wilson came before Congress and urged Congress to declare war Peter F. Tague did not get up on the floor of the House and say: "Mr. President, I want you to answer me a question; I want you to tell me what England is going to do for Ireland

before we declare war." That is the record there. It is repeated five times. The next thing is this: The *Kronprinzess Cecile* was a great big treasure ship interned in Boston Harbor during the period of the war, and on information and belief the United States marshal boarded her and found out through our Secret Service Department that the German sailors were about to sink her in Boston Harbor. Mr. Lomasney gets Mr. Tague on the phone and asks him to stop it, and Mr. Tague says: "I will not interfere with the Department of Justice." Think of that man being the leading citizen of Massachusetts! God save the mark! It is there, and in the margin, and right in the record, and you will find it in the testimony.

MR. CALLAHAN. It is in rebuttal.

MR. O'CONNELL. It is in rebuttal, yes.

MR. FITZGERALD. He rose from a very humble beginning to become an owner of large tracts of real estate, and Gov. McCall said he was the biggest man in the State convention.

MR. RHODES. I want to ask one other question. Does this man's name appear in the city directory or the telephone directory of Boston, and does it appear from there what his business is?

MR. O'CONNELL. I could not tell you that. I do not know about the telephone directory.

MR. CALLAHAN. There is an address given there.

MR. O'CONNELL. That is the political headquarters known as the Hendricks Club. He may possibly have some designation such as real estate, but you know the designation of real estate covers a multitude of sins.

There was one other question which was asked by a member of the committee in regard to my being prevented from cross-examining witnesses by the election board. That was a question of registration. It was a question of the identity of the witnesses. "Are you John Jones?" "Yes." "Are you a citizen of the United States?" "Yes." I wanted to find out whether that was John Jones. In this motley group of men I did not know which one of those was John Jones and nobody else did. They asked him questions and I was prevented from asking 45 men whether they were those men, to find out from the blue cards in their pockets what names they had.

I simply want to say this to you gentlemen. I want to ask your attention to the definition of fraud laid down in the case of *Mitchell v. Walsh*. In all my trial experience I have never come across a more comprehensive definition of fraud than in that case. It reads as follows:

Fraud can rarely, if ever, be proven by direct evidence, and the rule is that whenever a sufficient number of independent circumstances, which point to its existence, are clearly established, a *prima facie* case of its existence is made, and if this case is not met with explanation or contradiction, it becomes conclusive.

That is one of the best definitions of fraud ever written, and I wanted particularly to call that definition to your attention. I have shown you a multitude of circumstances, all of which indicate fraud, all of which are uncontradicted, running from the very beginning,

from the first day to the end, from the very first day we started down to yesterday. It is fraud all through. And that fraud has not been explained away. I say to you that if some reasonable explanation is not given to you, that the charges made are proven, as far as we are concerned. We have proven them by carrying the burden of proof, and we have carried it, and I say we have sustained the charge. I am going to ask you to have this case decided quickly, because I believe honestly that this man is the man who should be sitting in Congress, and it is not fair to the people of Boston that they should be deprived of their rightfully elected Congressman. I am asking you to seat him as the rightfully elected Congressman because he was honestly and fairly elected, as the record discloses.

(Thereupon, the committee went into executive session, after which it adjourned.)

CONTESTED-ELECTION CASE OF TAGUE v. FITZGERALD

HEARINGS

BEFORE THE

U.S. Congress Hearings
COMMITTEE ON ELECTIONS NO. 2

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

FIRST SESSION

ON THE

CONTESTED-ELECTION CASE OF

PETER F. TAGUE v. JOHN F. FITZGERALD

FROM THE TENTH DISTRICT OF THE STATE OF MASSACHUSETTS

PART 2

MONDAY, SEPTEMBER 15, 1919



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

copy 3

CONTESTED ELECTION CASE OF PETER F. TAGUE v. JOHN F.
FITZGERALD (TENTH MASSACHUSETTS DISTRICT).

COMMITTEE ON ELECTIONS No. 2,
HOUSE OF REPRESENTATIVES,

Monday, September 15, 1919.

The committee this day met, Hon. Louis B. Goodall (chairman) presiding.

Other members of the committee present were: Messrs. Lehlbach, McGlennon, Rhodes, Overstreet, Luce, and Elston.

The CHAIRMAN. The committee will come to order.

STATEMENT OF MR. MELANCTHON W. BURLIN, CHAIRMAN
BOARD OF ELECTION COMMISSIONERS OF THE CITY OF BOSTON,
MASS.

Mr. ELSTON. Mr. Burlin, you are here in response to a process issued by the House of Representatives of the United States, through its clerk, directing you to produce here certain ballots in the election contest of Tague against Fitzgerald. Is that correct?

Mr. BURLIN. Yes, sir.

Mr. ELSTON. And your presence here this morning is in response to that process?

Mr. BURLIN. Yes, sir. I would say, in explanation, that I received a communication from the chairman of the Election Committee No. 2, authorizing us, in the presence of counsel for Mr. Tague and Mr. Fitzgerald, to open all of the 60 boxes in the district and to take out the contested ballots. That was done in the presence of Mr. O'Connell and Mr. Callahan, and they were put in six boxes, sealed up, and the seals signed by Mr. Callahan and Mr. O'Connell, and, gentlemen of the committee, I have brought them here to-day and they are in your custody.

Mr. ELSTON. Who else has come here with you this morning?

Mr. BURLIN. Commissioner Murphy, my Democratic associate on the board.

Mr. ELSTON. And the board is what by name?

Mr. BURLIN. The Board of Election Commissioners of the City of Boston.

Mr. ELSTON. And have they official custody of the ballots themselves?

Mr. BURLIN. They have.

Mr. ELSTON. Who else is with you here?

Mr. BURLIN. No one else, except a friend of mine who came on to Washington.

Mr. ELSTON. Exactly what ballots have you brought?

Mr. BURLIN. The ballots at the recount which were identified by marks.

The CHAIRMAN. Are these ballots numbered?

Mr. BURLIN. There are numbers on the ballots; I think they are consecutive numbers, and there is a little paper clipped on top of each ballot, with the number of the exhibit and whom they were counted for by our board.

Mr. ELSTON. I just asked you what ballots you brought with you. Have you brought all the ballots that were cast for these candidates in the congressional district at that election, or have you brought only the ballots cast in particular precincts?

Mr. BURLIN. I would say I received a letter from the chairman of the committee instructing us to open the 60 ballot boxes and bring the contested ballots, and the contested ballots are here.

Mr. ELSTON. What do you mean by contested ballots?

Mr. BURLIN. The ballots that were matched with the exhibits and were contested when we recounted them, either by counsel for Mr. Tague or counsel for Mr. Fitzgerald.

Mr. ELSTON. In other words, you brought all the ballots that were examined before the election commissioners on the contest in Boston after the election itself?

Mr. BURLIN. No, sir; I only brought the contested ballots.

Mr. ELSTON. Only the ones that were contested?

Mr. BURLIN. Yes, sir.

Mr. FITZGERALD. About which there was a difference of opinion.

Mr. ELSTON. How did you identify those contested ballots?

Mr. BURLIN. As we made the recount, ward by ward, objection would be made by either Mr. Fitzgerald's or Mr. Tague's counsel that that ballot should not be counted for a certain candidate. We had a printed slip, and that was put on top of that ballot, with a clip, with an exhibit number, counted for Fitzgerald, or counted for Tague, or not counted, and those are in the boxes identified that way.

Mr. ELSTON. Those identifying slips were put on the ballots at the time of the contest when the objections were made and the rulings made on the ballot with respect to its admissibility, or whether it should be counted or not?

Mr. BURLIN. Yes, sir.

Mr. ELSTON. Were those ballots then segregated and kept in separate packages for record?

Mr. BURLIN. After each precinct had been counted the contested ballots of those precincts were put into the box of that precinct, so that when we opened the boxes the other day to get those ballots we had to open 60 precincts to find the ballots.

Mr. ELSTON. The 60 precincts comprised all the precincts in the district?

Mr. BURLIN. Yes.

Mr. ELSTON. Then you went through the whole list of ballots in those boxes and took out only those that had this identifying mark on it as having been one of the exhibits in the contest?

Mr. BURLIN. These 60 precincts comprise 60 wards, and we have these ward boxes all together.

Mr. ELSTON. How many ballots did you have altogether?

Mr. HARRINGTON. 1,305.

Mr. ELSTON. You mean to say you went over all of the ballots, and you made a careful segregation, and what you have here comprise all of the contested ballots in the election contest?

Mr. FITZGERALD. Agreed upon by my counsel and Mr. Tague's counsel, and in their presence, Mr. O'Connell and Mr. Callahan.

Mr. ELSTON. Then the segregation you made here in order to come down here with the ballots in response to the process was made in the presence of the attorneys on either side?

Mr. BURLIN. Yes; last Friday we had Mr. O'Connell and Mr. Callahan, representing Mr. Tague and Mr. Fitzgerald, present, and the boxes were opened in their presence, and after an inquiry was gone through we took those ballots and put them in the boxes and sealed them up. As I understand, that was by authority of this committee.

Mr. ELSTON. I think it might be proper to ask here whether there is any question by the attorneys on either side, since they are present, as to whether or not all the contested ballots are here.

Mr. CALLAHAN. They are all here.

Mr. HARRINGTON. As I remember it, sir, there were 1,507, and when we opened them the first time there was one missing, which is referred to in the record there. You will see it. One thousand five hundred and seven was the number of the original ballots.

Mr. ELSTON. Then, in as much as the attorneys for both sides are here, we can take it as understood that the ballots brought down here by Mr. Burlin comprise the whole list of contested ballots?

Mr. CALLAHAN. Yes; Mr. O'Connell agreed to that the other day. There were never more than 1,304, and there is one ballot marked 21, and that makes 1,305. Every one from 1 to 1,304 is accounted for.

Mr. LEHLBACH. Mr. Chairman, I move that we go into executive session.

Mr. LUCE. Mr. Burlin, do the exhibit numbers attached to the ballots refer to any list that you bring with you?

Mr. BURLIN. We have no list at all; we made no list.

Mr. LUCE. Then the exhibit numbers have really no significance as such?

Mr. BURLIN. Except as the counsel may count——

Mr. LUCE. Except as they made reference to them?

Mr. BURLIN. Yes, sir.

Mr. LUCE. We have here a record only of the hearing before the masters, not of the recount, so that the figures are produced to us only as they are mentioned before the masters, I take it?

Mr. HARRINGTON. The exhibit numbers in the testimony will correspond to those numbers in the boxes.

Mr. LUCE. But there are not 1,300 references in the testimony are there?

Mr. HARRINGTON. No; I do not think there are.

Mr. LUCE. And when the numbers are not mentioned in the testimony they have no significance to us?

Mr. HARRINGTON. I would not say that. As I remember, the 1,300 and some-odd are mentioned in the testimony.

Mr. LUCE. Every one?

Mr. HARRINGTON. Every one is numbered. The first 100 or 150 have no remarks about them, and then after that they all have remarks about them.

Mr. LUCE. I did not realize the whole 1,300 were specifically referred to.

Mr. HARRINGTON. We had the commissioners call them off one by one and put them in the record.

Mr. OVERSTREET. Mr. Chairman, I would like to make this suggestion: We do not know just exactly what we are going to encounter in examining these ballots, and we might need some explanation. Would it not be a good idea for Mr. Burlen to be nearby for the first half hour or so, in order that we may call him if we desire?

The CHAIRMAN. I see no objection to that.

Mr. BURLEN. I await the pleasure of the committee.

Mr. FITZGERALD. I think it is all important, Mr. Chairman, that the chairman of the commissioners should be here when these ballots are opened, because the integrity of the chairman has been challenged and the count has been challenged, and he is here after an experience of 25 years in charge of the election returns of the city of Boston, and the honor of that city and its election machinery is at stake, and I feel that the matter can not be gone into too closely, and I do hope that when the committee are deliberating upon this thing they will exhaust every means to get at the truth. I am the sitting Member of Congress, and, as I said, I got a unanimous certificate from the board and the State house, but I do not want it unless it is mine properly, but, as I said a moment ago, this man is the chairman of the board and has been its election official for a period of 20 years and he knows the Massachusetts law and the Massachusetts practice and he has had all kinds of charges made against him. I think that while there are 1,300 ballots there are only a comparatively few of them that are in dispute, and I think it would be only fair that Mr. Burlen should be called into conference upon this thing, and particularly for this reason, and this statement is capable of truth, that counsel for Mr. Tague, Mr. O'Connell, is openly betting in the Boston streets \$200 against \$100——

Mr. LEHLBACH. We do not care anything about that.

Mr. FITZGERALD. He is betting that money that this case is going one way. I mentioned that fact because it is an extraordinary situation.

Mr. HARRINGTON. If it is necessary for Mr. Burlen to be present we would like the opportunity also to be present. If you call him into conference we would like the privilege of coming in, too.

Mr. FITZGERALD. That is perfectly agreeable to us.

Mr. LEHLBACH. I think that the suggestion of Mr. Overstreet is a good one, and inasmuch as Mr. Burlen has expressed himself very kindly and very generously as being at the disposal of the committee I suggest that for the first half hour or so, until we see how we are proceeding, he be requested to wait in the adjoining room, and if that is understood I move that we go into executive session, with no one present but the members of the committee.

The CHAIRMAN. You put that as a motion?

Mr. LEHLBACH. I do.

(The motion was agreed to.)

The CHAIRMAN. Mr. Burlen, you may step into the next room.

Mr. FITZGERALD. Is it all right to have the counsel around, too, in case anything develops?

Mr. LEHLBACH. Of course, they can stay, surely.

The CHAIRMAN. They can go into the adjoining room.

Mr. FITZGERALD. Mr. Harrington suggested that both sides be represented. That is agreeable to us.

Mr. ELSTON. If one side is present the other side ought to be present.

(Whereupon all parties present except the members of the committee withdrew into an adjoining room.)

The chairman then authorized the opening of the first sealed box, designated ward 1, with no precinct number, and countersigned by Joseph F. O'Connell and Timothy F. Callahan, as counsel for the contestant and the contestee, respectively, and sealed with the seal of the board of election commissioners.

The box was then opened and disclosed ballots presumably for eight precincts. The committee then proceeded to check the ballots in the order of the precincts, and directed the clerk of the committee to keep a tally of its decision.

CONTESTED-ELECTION CASE OF TAGUE v. FITZGERALD

HEARINGS

BEFORE THE

U.S. Congress House
COMMITTEE ON ELECTIONS NO. 2

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

FIRST SESSION

ON THE

CONTESTED-ELECTION CASE OF

PETER F. TAGUE v. JOHN F. FITZGERALD

FROM THE TENTH DISTRICT OF THE STATE OF MASSACHUSETTS

PART 3

TUESDAY, SEPTEMBER 30, 1919



WASHINGTON
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1919

copy 3

CONTESTED ELECTION CASE OF PETER F. TAGUE v. JOHN F. FITZGERALD (TENTH MASSACHUSETTS DISTRICT).

COMMITTEE ON ELECTIONS No. 2,
HOUSE OF REPRESENTATIVES,
Tuesday, September 30, 1919.

The committee this day met at 10 o'clock a. m., with Hon. Louis B. Goodall (chairman) presiding, having under consideration the matter of the contest of Peter F. Tague, contestant, v. John F. Fitzgerald, contestee.

STATEMENT OF HON. JOHN F. FITZGERALD, A REPRESENTATIVE
FROM THE STATE OF MASSACHUSETTS.

The CHAIRMAN. How much time do you want?

Mr. FITZGERALD. I don't know. I don't want to unnecessarily burden the committee. I should think that a half or three-quarters of an hour will be enough.

The CHAIRMAN. All right; go on. We want to get your ideas.

Mr. FITZGERALD. Shall I wait for Mr. O'Connell?

The CHAIRMAN. No; go right on.

Mr. FITZGERALD. Mr. Chairman and gentlemen of the committee, I happened to meet the chairman of the committee on the train this morning, and I told him in a jocular sort of way that I thought it would be advantageous to the committee and very satisfactory to myself if I were permitted to appear before the committee and make a statement, and he said he thought that was a perfectly proper request, and he would put it before the committee; and I want to to thank the committee for that courtesy.

My position is simply this, that I want the question settled. It is vital. I can't afford to hold a seat dishonestly. I have taken that position from the start. I have told my attorney that I do not want to hold the seat unless I am seated honestly. I was told that Mr. Tague didn't have any case before the commission; and if I wanted to go before the court in all probability they would throw it out. I told them, no; I wouldn't accept the seat under those conditions. Same way with the election commission; I never went near the hearings or the courthouse. I simply let this matter be decided by the proper tribunal, and, as the evidence shows, I was given a verdict unanimously by the Boston election commission and by the State commission, and by everybody that had anything to do with counting those ballots.

Right from the start the newspapers had printed—in the Boston Record (I have got this statement in my files upstairs) a day or two after the primaries—where Mr. Tague said he was going to

bring this matter down to Congress, and that has been his consistent public attitude as published in the newspapers. And I was informed that he made that statement and it has been apparent to me from what he has said and his friends have said that rather than appeal to the constituted authorities of Massachusetts, which were open to him for decision, he was coming down here and get a decision.

I am very jealous of Boston and Massachusetts. My family have lived there all their lives, so have I, and when an assault is made upon the integrity of the ballot of Boston, it reflects upon us very severely, and it would be a strange situation if a man who says he is robbed of the election if there were not some means at his disposal in that Commonwealth by which justice would be given him. Day before yesterday, I believe, or two or three days ago, the primary was held in Boston and, as usual, charges were reported and made of illegal registrations and those are being investigated by the constituted authorities now. They will be settled by those authorities now and Mr. Tague had the same chance. He talked fraud in the primary and the primary was held on September 20th, about seven weeks previous to the election, and yet notwithstanding those cries of fraud and illegal registration, though the election commissioners' offices were open night and day for those seven weeks, and although the law says that any person complaining of illegal registration would be heard by the election commission, and if the person didn't come to defend that registration their names were drawn off the list, and if they do come and defend it the election commission was in position to decide the thing, Mr. Tague has never appeared before the election commission even to this hour, to scratch one of those names. Mr. O'Connell says for him, I think, that the election commission should give him a few hours' notice.

You gentlemen know how fallacious that is, because as I said before there were seven or eight weeks elapsed between the time they cried illegal registration at the primary and every man—that is what I want you gentlemen to understand—every man who voted crooked at the primary voted crooked seven weeks afterwards, and it would be a very sad commentary on the election machinery in Massachusetts if at this primary the other day where the cry of fraud was raised those men who cry fraud on registration day were allowed to vote on the election day. I want to get that in your minds clearly. There was ample opportunity. They could have gone to the courts. He said the other day that if he were a millionaire like myself he could have gone to the courts. I have never taken the pains to answer that, but I want to answer that now because Mr. Tague has yelled that all over the city of Boston, because my son-in-law to whom he is under direct financial obligations and is yet—I am not a millionaire and never was. I was born and reared under similar conditions to those under which Mr. Tague was born and reared. I graduated at Boston Latin School and attempted to go to Harvard but gave it up. My father died. There were nine of us to support. I paid my own way. I raised a family of six children, paid my bills and have gone on in the world and met people face to face. Never owned a share of Bethlehem Steel in my life and as I said before if the gentleman can prove that I will resign

my seat. I never had the slightest interest in Bethlehem Steel stock, never talked with Mr. Schwab about my son-in-law going into the plant. The only conversation I had with Mr. Schwab was when Mr. Schwab came up to Bethlehem, and I was one of the invited guests, two years ago. He complimented me on the splendid work my son-in-law had done. He is a graduate of Harvard and went out into the world to earn his way, without regard to his relationship to me. He helped Mr. Tague. When the war came on he felt that he should do something and wanted to help, because I had always talked about shipbuilding for a greater part of my service and devoted a greater part of my political career in its development in Boston, and as he thought he should do something, and as the corps of men was raised from 6,000 to 36,000 he was picked for the job. I never was consulted about the job by Bethlehem or anybody else. And yet this man said in every speech that I was a millionaire. He said so here the other day, that I was going to take the shipping from Boston and bring it over to the Bethlehem company. The answer to that is complete. My son-in-law resigned his position there a couple of months ago and is now connected with one of the banking houses in Boston.

I want to answer the statement about the millionaire, because, as my son-in-law said, he had ample recourse to the courts and he had as good chance as I did in the world. He was born in better conditions. He lived in Charlestown. I was born in North End, and it comes of poor grace for a man of that kind to say in a contest of this kind that he was deprived of his chances because he wasn't a millionaire.

Another thing I want to make reference of here is that I had two boys in the service; both of them went to Plattsburg. When the war broke out they talked to their mother. One boy said, "I will go into the Army," and the other said, "I will go into the Navy." One went in the admiral's office, and was on shore all the time. The other went to France, and every day we didn't know when we would get a telegram. A year ago last week when this boy was practically in the front-line trenches, this man in the presence of thousands of people in East Boston and Charlestown said that I had stealthily kept that boy away, down in Pennsylvania. Of course, he denies it. He denied it at that time, but there were thousands of people heard him make the statement that I had this oldest boy of mine, and I said then he was over on the field of France, and he gets a secretary to go into the Boston Post at 2 o'clock in the morning and pulled the denial I made. And I want to say, Mr. Chairman, it is a good thing I wasn't near you [pointing to Mr. Tague] the night you made that statement in the square. It is a good thing I wasn't near you that night.

MR. TAGUE. I am here now. I am here now.

MR. FITZGERALD. I want the committee to know how I felt. The atmosphere in the campaign—and, Mr. Chairman, I am in the position absolutely to prove that statement. It is a terrible thing to say of a man who is a candidate for Congress or who is in the public eye that I kept my boy away from the front when he ought to have been at the front. I could mention matters in connection with the methods that he employed in that same respect in regard to the immediate

members of his own family, but of course it is perhaps not relevant here, and I won't mention it. This question comes down, on this question of ballot, and I said to the committee very frankly I don't want this election unless it is mine. I was elected by 238 majority with 5 or 6 votes that came in from the soldiers, giving me a majority of 243 votes. As I said before I never went near the election commissioners, never went near the State ballot commission, merely gave instructions to those near me that I didn't want this seat from the commission if it wasn't mine. And the members of the board who have been members for 20-odd years and the other members of the commission decided that I was elected. It comes down to the question of those other ballots and the 175 ballots which, where Mr. Tague has received a paster and without a cross, I contend that the ballot and what the ballot tells should govern this committee.

And if 1 per cent of those voters (and that is all that voted with this sticker without the cross) went into that booth, put that sticker on, I don't think this committee in conscience can count those votes for Mr. Tague for the reason that the cross is the secrecy of the Massachusetts ballot and this contest was very severely fought and when the pasters would be given out and Mr. Tague had workers at every poll, he had plenty of money to run his campaign, and when these stickers were given to these men who went in, it was in full sight, and what is more natural, if 1 per cent of those men, Mr. Chairman, put those stickers on the ballots and didn't mark them, and walked out, and particularly if those same ballots show in every other case, as a rule, in the margin of those ballots, the voter marked a cross, and if he refrained from marking a cross it amounts to but 1 per cent. It is my contention that those voters did not intend to vote for Mr. Tague and that they simply wanted to fool the man who handed them the sticker, who could be fooled by putting them on. And they refrained from putting it on.

In the Australian ballot law some years ago they found that people didn't vote as they said they would vote going in, and they had an alternative, and at the election they had one of their own crowd go into the ballot booths and get a ballot and bring it out unmarked, and then they would take and mark that ballot, and the people they didn't trust and wanted to vote their way they would mark that ballot and then they would ask that person to deposit this ballot and bring out that ballot, showing how easy it was under the Australian ballot, where it was first inaugurated, to adopt this means of fooling the people that were behind the law, and as I said a moment ago, if they are less than 1 per cent of those people putting those stickers on, it is my contention that where those ballots show a cross in every other name those votes should not be counted.

Now there is some question about 8 or 10 ballots there where the cross appears and there isn't any paster, and Mr. O'Connell, as most of you gentlemen know, is on record here as saying that there were hundreds of those ballots and they can't be found. They talk about this paster; there was no policeman saw it; no election officer saw it. When Mr. Tague's manager heard it, it was three or four nights afterwards, and the manager was down here and said they couldn't be found and none of them were ballots at all. That can't be used; it isn't evidence. So where these 10 crosses appear, and if you re-

member there were 60, and if those 10 crosses weren't one-sixth perfect, how can that be believed?

As the gentleman said the other day, when he was street commissioner of Boston, he said there were 1,800 of those crosses in a vote of 70,000 or 80,000 that were put underneath the name. And of course we all know where there are 15,000 or 16,000 names who went in and take the ballots, it is a great commentary on that election that only 10 of them slipped. And it is a strange contention that these 10 votes, that there were but 10 votes that showed that thing, when Mr. Tague claims there are hundreds. It is absurd. The Fitzgerald-Tague vote and the Fitzgerald-Fletcher vote and the Fletcher-Tague vote, those votes speak for themselves. I have a stenographic report of all those ballots; how those were cast. I talked to the election commissioner and others, but they say it is a remarkable tribute to the electorate there that practically the same vote was cast in the race for Congress as for governor. And Mr. Luce knows (pardon me for bringing his name in this) there was a very warm contest between former Gov. Walsh and United States Senator Weeks. There were more votes cast for Congress than for United States Senator in that district. They knew how to vote, and judging from the money used by Mr. Tague and by advertisements, letting everybody know how they are going to vote, they knew how to vote. So that is practically the story of the ballot as far as the fraud is concerned.

Of course nobody wants an election that is through fraud. I will resign my seat now if any fraud is proven that vitiates this election, but my contention is that there has been no fraud proven that would vitiate this election.

As I said a moment ago, this ward has been under discussion for some months past, and yet it is the same ward that gave Mr. Tague his election four or five years ago, and he knows he couldn't have been elected without Mr. Lomasney's support. It is a tenement-house district, but their names are on the list in Boston. The commissioners are men who are successively appointed by Democratic and Republican mayors, and the man who is challenged, his name goes off the list, and he (Mr. Tague) hasn't challenged the name of a man up to this. The ballots are here. And all these names that are challenged were on the list all the time he was a Member of Congress, and I, therefore, say to you that these charges about these allegations—that is all they are—have not been substantiated by any proof of any kind.

If he wanted to, he had a little over eight weeks between the time he charged fraud at the primary and when the election occurred. He says he wasn't given time enough, and of course that assails the honor and the integrity of the election board. But my impression is that he had all of that time, and if Boston is in such a situation, and the Massachusetts laws are in such condition, that a man cries "illegal registration" at the primary which occurred last Monday, and that election is to occur seven weeks from now, and that can not be redressed, God help poor old Massachusetts! I say that isn't true. Massachusetts isn't disgraced in that respect. There were ample opportunities for this man to go down and prove these charges and wipe these names off the list instead of waiting to come down here

and wasting the time of Congress and filling the newspapers with charges. There have been cases in this Congress where those things have been proven. If those ballots were looked upon as crooked votes, if these three or four hundred voters who were brought into the courthouse, and the summons was illegally served according to contention of counsel, it wasn't in a place to settle the case. It should have been settled in the courthouse at Boston, where the case could have been heard. Then the charge of Mr. Tague falls to pieces.

There is a big issue in this case. It isn't Mr. Tague or myself. It is the integrity of the election commissioners of Massachusetts. If his statement is true, he couldn't get an honest election in Massachusetts. I won't accept a seat where it is tainted. I won't accept it where my right is contested. I can't afford to say to those people that Mr. Tague came down to Washington here and on his statement charges of fraud where he was unable to prove them in Massachusetts that he was able to obtain the recognition that would declare this seat vacant or give it to him. There is nothing in his contention or the contention of counsel that would prove that.

I have said this thing very hurriedly and it was the statement of the chairman on the train that led me to the feeling to come in here. If the committee wants to ask me any questions I will be glad to because I want these things cleared up. There are a good many men here on either side of the House, on the Democratic and Republican side, from Massachusetts. I said "I won't embarrass you a moment." I said, "the minute the committee can show me, here Mr. Fitzgerald, here are the facts, I will resign." I can't afford to hold it. I think too much of my city and the Commonwealth. I would be down here under false colors. That is my position.

I will be glad to answer any questions the committee may ask. Or, I will be glad to answer any questions that Mr. Tague will ask me. I will be very glad to answer them.

Mr. LEHLBACH. You suggested that the paster may be affixed before entering the booth?

Mr. FITZGERALD. Oh, no. I beg your pardon. I did not say that. I was talking about the Australian ballot law.

Mr. LEHLBACH. You said a man might affix the paster and then later decide not to vote?

Mr. FITZGERALD. Yes.

Mr. LEHLBACH. But the paster could not be handed to him in the polling place, could it?

Mr. FITZGERALD. Yes, yes; yes, it could. It is the law that it can not, but they do not pay any attention to it. They are in there, right and left.

Mr. LEHLBACH. The man receives a ballot from the judge of the election and goes into the booth?

Mr. FITZGERALD. Yes.

Mr. LEHLBACH. He is not permitted to begin arranging or preparing his ballot before entering the booth?

Mr. FITZGERALD. The booths are wide open.

Mr. LEHLBACH. There is a curtain in front of them, is there not?

Mr. FITZGERALD. Oh, no; there is no curtain there.

Mr. LEHLBACH. No curtain?

Mr. FITZGERALD. No; no curtain; they are wide open. You can see a man in there without the least bit of trouble. If he does not deposit his ballot, he will have to put it in his pocket or drop it or something.

Mr. LEHLBACH. Of course, here is no chance of a voter not voting and taking his ballot out?

Mr. FITZGERALD. No; I did not say that was done up there. I was talking about Australia. I want to be correct on that. That was done in Australia, and I wanted to emphasize that where the Australian ballot originated the voters did not do what they said they would.

Mr. LEHLBACH. They did that in this country until the system of checking the ballots was inaugurated, did they?

Mr. FITZGERALD. Yes, sir. Those men accepted the pasters, which they could. It is not unlawful. The law says you can not give out any election document except the pasters, and it was lawful under the Massachusetts law that the pasters could be given out, and they were given out. They were given out, as I said before. The policemen that were there were not very zealous about that phase of the law, because there did not seem to be any particular objection to it; and there was no reason on my part why I should object to it, because Mr. Tague had sent them through the mails to them. I think they were sent out that way twice. I think Mr. Tague's friends made a mistake—they said so—that the pasters they sent out the first time were too large, and they sent out the subsequent ones.

Then he claims we gave them out. You know why he claims we gave them out? So if we gave them out, they could give them out. His claim is that we gave them out.

I will be very much pleased to answer any questions at all, because I want to get this cleared up right. I would be very glad if Mr. Tague would ask me any questions about this matter—or any members of the committee.

The CHAIRMAN. Do you wish to ask any questions, Mr. Tague?

Mr. TAGUE. No, sir.

The CHAIRMAN. Do you wish to make any remarks?

Mr. TAGUE. Yes, I do.

The CHAIRMAN. You may proceed, Mr. Tague.

Mr. TAGUE. Mr. Chairman, I do not suppose the committee wants to have me start in like Mr. Fitzgerald has, with a lot of personal affairs, and I do not intend to do it. Here is the record in this case, seven hundred and some odd pages. Mr. Fitzgerald had a chance to go to court and answer all these charges. His attorney promised us on two occasions that Mr. Fitzgerald was going to take the stand. He never showed up in court. As soon as we filed our notice, he went to Palm Beach, and we could not reach him. He came back, and the record shows it, the day of the opening of his own case. He came back into court and was there about five minutes, and then he disappeared and never came into court afterwards.

Mr. FITZGERALD. Just what has all that got to do with the case?

Mr. TAGUE. I am doing the talking. I did not interrupt, and I do not want to be interrupted myself.

This bugaboo of sympathy and telling what he will do and what he will not do, to us, in Boston, who know him, is the same old story

and the same old song. There is just one thing that he said that I did not like, and that is about his boys. That is contemptible all the way through, Mr. Chairman. Now, let me tell you the history of that, and he knows it. When he tells you what he will do to me, he knows better. If he ever wants any of that, this is not the place to do it. I do not do those things. I do not go around with a chip on my shoulder, telling people what I will do to them.

Mr. Tim Callahan, his attorney, came up to my own home ward during the campaign, not the night after the opening, but about three nights before the close, and before an audience which was hooting him at the time he made a speech, and in that speech he said, "Mr. Fitzgerald has given his two boys to the country." And he said, "Where are Tague's boys? Why are they not fighting for the country?" And my answer to that was this, and I do not care what they tell about it. I know who it was told the story. It was men antagonistic to me, who would kick the legs from under me if they dared try it, and they have tried it. I said, "Mr. Callahan made that statement. It is unfair." I said, "I do not know how many boys Mr. Fitzgerald has in the war. I know he has one in the Navy, because I have met him, and I understand that he has one in the Army; where, I do not know; but, wherever they are, God bless them." That was the statement I made. And I said, "My boys, 12 and 14 years old, are up in bed, where they belong."

Now, he put that story out into the newspapers. The Boston Globe called me up. My secretary did not take it out of the paper. I did it. The night editor of the Boston Globe called me at my home on Sunday night, and told me about that story, and I went over and saw him, and he asked what happened, and I told him what happened, and I said "If you do not believe me, call up Mr. O'Connell at Worcester, who was sitting beside me at the time." I said, "That is not a true statement; it is not a fair statement."

I went over to the Post and saw the night editor, and he told me it had gotten out in the first country edition, and he said, "From what you say, I will withdraw it." And it was withdrawn.

He has been parading around that I have been assailing the integrity and honor of his boys. It is contemptible. I do not think it is fair. I am going to wash these things out to you. You have the evidence. There is the evidence taken before the court, and he did not have the manhood to come out in public before the court and let my lawyer cross-examine him.

MR. FITZGERALD. What court?

MR. TAGUE. In the court where you were supposed to go—down before the notaries. But he was too big a man. Congress is not big enough to tell him when he comes to court. I went to court with my case and proved my contentions. I went to court and I went to the election commissioners, and the statement of the election commissioners was such that we went to the mayor and asked him to remove them; and the mayor sent his corporation counsel to advise them, and he sent his assistant, Mr. Higgins. The testimony shows he went into the hearing before the election commissioners and was refused the stand; and I do not know whether he was ordered out, but he left the room in utter disgust. And his lawyer, Mr. Miller, was the man who stood up in the meeting and said, "Gentlemen, I

am disgusted with the actions of the election commissioners." That is in the record, and they have not denied it.

They have not denied any of these things. There is not a single thing he said that has not been hashed over and rehashed.

But in saying that I said I would not abide by the decision of the committee of Boston, I never said any such thing, and he knows it. He can come down here to-day and make that statement, because he thinks nobody will deny it. I can deny it. I have denied it under oath. There is the testimony. That is what you will be governed by, not what he says to-day, three or four months after it has been hashed over and over again in the newspapers. And he has not denied these things for one moment. He has not denied one single charge we have made.

Now, as to the stickers, Mr. Luce asked whether or not they could be given inside the booth. They could not be given inside the railing of the booth, but let me tell you what happened in the primary in that ward. And that is the reason we tried to get the men heard before this committee. Over 400 ballots were given out in ward 5 and the stickers placed on them before the voters got them. Where did they get them? The record shows what happened there. Over 400 stickers, bearing the entire State ticket on the Democratic side—lieutenant governor, attorney general, treasurer general, secretary of state—over 400 of them in ward 5 were placed on those ballots before the voters got them. Where did the voters get them? The ballots were taken outside the railing, and they got them there in ward 5. And you know it.

The CHAIRMAN. Please address your remarks to the committee.

Mr. TAGUE. Excuse me, Mr. Chairman.

Mr. LUCE. When did that happen?

Mr. TAGUE. In the primary, the 24th day of September, last year. They refused to give us a hearing.

Mr. LUCE. I never heard of that before.

Mr. TAGUE. The Democratic State committee neglected to file the balance of the State ticket, outside of the governor, and they put out stickers, and they were supposed to be placed on the ballots.

The CHAIRMAN. That is the Massachusetts law?

Mr. TAGUE. That is the Massachusetts law.

And we had in ward 5, where he says none of this fraud took place, over 400 which were placed outside the railing and marked. And they were marked with different colored lead pencils than the pencils on the ballot, green, red, blue, and black, different from the ballot marks; but they went to the voter.

He knows all that was going on 15 or 20 years ago. He charged the same thing in that ward. Mr. Luce, on the committee, knows that has been going on, because in the legislature he had charge of the same kind of a case, 20 years ago, or 15 years ago, while I was serving up there with him.

Mr. Lomasney, in his testimony, testified that was the reason he was with me for Congress; I had shown such strength that he knew I was the man who could defeat Callahan when he was defeated. It was not that he loved me, but he wanted somebody to defeat him. In the second term I had no contest.

Now, Mr. Chairman, I am not going into family affairs. I have not said anything about his family, and I will not. I could say a lot

of nice things, and I have. I think he has got one of the finest families in the world. I say that to him, even though he is of that disposition. No man living has any more respect for his wife and children than I have, those that I have met, and I think it ill-becomes him to come before this committee and bring his family in and try to bring my family into this quarrel.

You are going to settle this case on the testimony and I have proven fraud, as you can see in that testimony. At least what I have said has not been denied by a single man, and we summoned 500 of them into court under the mandate of the Congress of the United States, the only authority we had to summon them by. There was no other means of getting them. The district attorney told us he could not bring them in. There was no law to do it. Then I appealed to the judge of the United States court, Judge Morton, and he said if he had the authority he would make them come in, but he had no authority.

You have been all through this and I thought that was the end of it. But here we have this last-day affair, where a man comes in who has tried since this thing started to delay and delay and delay. If he does not want the seat, why does he not let us settle this case now and let you men of intelligence decide who is entitled to it, whether he is entitled to it or not. His testimony was to be in in June. You were present, Mr. Chairman, on the 12th day of June when he appealed for a week further to bring in his testimony, which made it the 19th of June. He brought it in after July. Then in July, when I filed my brief, and he came before the committee and wanted further time to file his brief, and it was not filed on time. There has been delay, one thing after another. If he is honest with us, let us settle this case now, and I will take my chances before you gentlemen, who are looking upon the case as intelligent men and former colleagues of mine.

I do not think he can come to Congress and blacken my reputation with my colleagues. I do not think there is a man in Congress who will say I have ever done an unfair or mean thing. And he is the first man, outside of Mr. Lomasney, that ever said I ever did an unfair thing in all my life.

It is with ill-grace to come here to-day, in the closing hours of this case, when everybody is working so hard to try to solve it. I have not gone out trying to influence the members of this committee. I have not gone out bringing influence upon you for a moment. There is no man on the committee can say I ever asked him to vote for me. All I have done, I have tried to help the committee and to give them all the information I could, and I have kept my attorney here every day for the last five weeks and had Mr. O'Connell down here trying to give the committee any information they may want.

I am sorry, Mr. Chairman and gentlemen of the committee, that I have to talk this way. I did not expect to do it. I prepared nothing, except for the little things I have jotted down of what he had to say here.

As to the stickers, let me say this: The testimony shows that Officer Underhill saw the stickers, and his attention was called to it by Mr. Dennis Mahoney. The testimony shows that Mr. Murray, who got the stickers, was representing Mr. O'Hearn in East Boston.

Mr. O'Hearn held possession of them, and he was summoned to come before the notaries and tell what he had done with them, and he would not come.

That is one thing wrong in this law, and you know it, gentlemen. There is no way for me to compel a man to come in. The only thing I can do is do what the law says, and when I do that I have done everything in my power to bring the evidence to you, and I have done it. I have done it, as fairly and squarely as I know how. I have tried to bring my case before you. If I did not do it, it is not my fault. The case is not there.

I want to call your attention to the fact that I summoned 500 witnesses, and this record will show it, and I paid those witnesses and I paid my money to summon them, notwithstanding he says I did not. The United States marshal got his money for every witness, and every witness was paid. I paid the sergeant at arms before the ballot-law commission for summoning every witness, and he took my money for summoning them, and they would not come into court. They defied the court. They defied the court until the last day, when Mr. Cunningham, who had criticized the actions of the ballot-law commissioners for not making them come in, said he would compel them to come in. Then Mr. Lomasney marched in at the head of about 40 of them and produced a paper and said, "Here is my power of attorney." Lomasney is not an attorney. "Here is my power of attorney. I am going to represent these people." And the chairman said no. We had summoned them.

And when these men came into court, and we were going to prove they were illegal voters and had been illegally registered, the chairman of the commission refused to allow our attorney to question any of them. Henry Gray, who lives in Jamaica Plain, with his wife and five children, and is a business man in Boston, went on the stand and under oath before the ballot-law commissioners testified he lived in that ward. Joe Walsh, an inspector of the board of health, who lives in Roxbury, swore he lived in the West End, when he knew he was lying and knew when they were about to take his name off the list before he appealed to them not to take his name off the list or prosecute him on account of his family. Other men of that kind were permitted to testify, and we were not allowed to question them, and we were the parties making the complaint. I wonder how you gentlemen of this committee would feel going before a commission that would not give you any more notice or consideration than that.

And then when we summoned the chairman of the ballot-law commission down before the notaries and asked him to bring his records he could not produce them. They did not have a record of the case. That is in the testimony of Mr. Cunningham. We asked if the records of the ballot-law commission were not kept in the safe of the State. He said no, in his private office in the Tremont Building. He could not produce the evidence of the facts in the case.

And his own attorney, before the ballot law commission, said we had proven 37 cases of fraud, voting upon soldiers' and sailors' names, voting dead soldiers' names. I would not take a seat in Congress that was stained with a crime like that. I would be ashamed to sit here and talk of fraud.

Then you say to me, can you prove who these soldiers were? Yes. James Freel, president of the Hendricks Club, in charge of precinct 4, with a boy in France. And James Freel had his boy voted on. James Graham, secretary of the Hendricks Club, with a boy that to-day is in the hospital of incurables on account of the service he rendered the Government, and at the time they were voting the poor fellow was in the hospital, didn't know whether he would die or not. James Graham allowed his boy's name to be voted. Posing Crowley was dead when they voted his name. Young Black was dead when they voted his name. All these are in that war.

Now, Mr. Chairman, that is not my say so. That is the evidence that is before this committee, and I am not going to tire it any longer. I am not going to take up your time. You have been very patient and very kind, and I appreciate it; and I am sorry this gentleman could come in at this late hour, and for the purpose of misleading and blinding you, with the short time that is before you to settle this case, then to come in with a lot of unfair methods about washing out a lot of things that do not belong here. God knows there is enough of that to be done up home, and if the gentleman wants to do that at home, let him go ahead. Let him try it. But don't let him come down here trying to fool you gentlemen, who know the game just as well as he does.

Mr. LUCE. I would like to ask Mr. Tague a few questions on some simple matters of fact. I do not think that it need arouse any controversy at all, but it is not just clear in the record.

Mr. TAGUE. Yes, sir.

Mr. LUCE. Perhaps it will better enable us to understand what has happened. Through whom did Mr. Pedrick, sergeant at arms, serve the summons?

Mr. TAGUE. Through his deputies.

Mr. LUCE. The messengers at the state house?

Mr. TAGUE. Yes, sir. The bills are all there in the name of the messengers from the state house.

Mr. LUCE. They are not there yet.

Mr. LEHLBACH. We have not received the exhibits.

Mr. TAGUE. They have just come in, I understand. They were served by the sergeant at arms, through Mr. Frank Steele, his deputy. I paid not only the expense of service, but the expense of automobiles, and the men chased these men as far as Wilmington. Mr. Luce knows, although the members of the committee may not know, that Wilmington is 18 or 20 miles outside of Boston. They chased these men as far as Wilmington, and they could not find them and could not get them. When I went to these boarding houses, the United States marshal could not find them. The sergeant at arms could not find them either. There is the double proof that these men never existed.

Mr. LUCE. What was the process in this matter of payment? Did you turn over to Mr. Pedrick a certain amount for each man?

Mr. TAGUE. No. When the hearing opened, the chairman of the board said that I would have to pay for the service of the summons, and I asked Mr. Pedrick how much he wanted, and he said he did not know: and I think I gave him \$150 the first day, and he came

back a little later and I gave him \$75 more, and at the end of the hearing I think he handed me back \$35 or \$40.

MR. LUCE. I would like to ask the same question with regard to the summons served by the United States marshal.

MR. TAGUE. I think I gave them \$300 the first day and \$200 the second day and \$150 the third day. I have the receipts. I think they are all there in the testimony, or in the exhibits. All of these men were legally summoned, not by a sheriff outside, not by a constable, but by the assistants of the United States marshal, whose names are here.

And let me say further, it is in the testimony here that Mr. Callahan criticized the service of the summons and came before the notaries and said he was going to produce the deputy marshals on the 3rd and 4th days of April. He named them and the days were set for them to be heard, and he never called a single deputy, and they were almost in the next room to us, right on the same floor, across the hall.

They were sitting there in the hall, having been notified, all day long, waiting to be called by Mr. Callahan, and he never called them.

Here is what he said:

JOSEPH F. O'CONNELL, *Esq.*,

Attorney and Agent for Peter Tague,

Boston, Mass.

DEAR SIR: Please take notice that on Thursday, April 3, at 11 o'clock a. m., and Friday, April 4, at 10 o'clock a. m., we shall examine the following witnesses before Hon. David Mancovitz, notary public, in the matter of the Tague-Fitzgerald election:

John H. Backus, Benjamin J. Scully, Christopher Gilhoni, Charles A. Bancroft, James A. Tighe, George A. Crockwell, Thomas J. Pyne, Charles A. Farrell, Asa P. Barker.

Address: United States marshal's office, Federal Building Boston.

Will you please have on hand these days summonses or returns on summonses which have been introduced as exhibits?

He never called the marshals, and we produced the summonses and had them there on the table the next morning ready for him to produce the marshals. The testimony shows that Mr. Callahan, Mr. Brogna, Mr. Mancovitz, the notary, Mr. Harrington, the attorney, and myself were there three days ago through those summonses. There was one package of over 75 or 100 summonses. He said he did not care to say any more.

I was trying to prove they were properly summoned, and these men were ready to prove they were served, and he never called the men to prove it.

There is not a single gentleman on the committee in this case who can show one single act of ours that has not been for the purpose of bringing before the Congress of the United States every bit of evidence that was possible to secure. On the other hand, Mr. Lomasney's testimony takes up about 300 pages of abuse and villification.

MR. LUCE. We are getting away from these simple questions I wanted answered.

MR. TAGUE. Pardon me.

MR. LUCE. I simply want to make a few things clear on the record. Is there in the exhibit the list of the 40 men that Mr. Lomasney brought before the ballot commissioners?

MR. TAGUE. There in the testimony?

Mr. LUCE. Yes; is such a list in there?

Mr. TAGUE. I do not know, Mr. Luce. I do not think there is, because when the men came we did not know whether they were the men that came on our summons or not. We had no means of knowing it. The chairman of the board would not give us any of the papers to look at. He merely examined the witnesses himself.

Mr. LUCE. Yes. That is a different thing. I only wanted to get some simple facts for the record.

Mr. Fitzgerald, do you know where in the testimony the 40 men came in? We don't want to have an argument about it, but just want to get these facts in the record, and see if there can be an agreement on any of them.

Mr. FITZGERALD. I was not present at any of the hearings. Mr. Cunningham was chairman of the ballot-law commission, and, as I recall it, these men did not come from Mr. Lomasney's ward altogether. They were from ward 5 and ward 6. Ward 6 is where Mr. Callahan is. He is in charge himself. My recollection is that those 40 men came from the south end as well as the west end.

Mr. LUCE. These were 40 men whose names were on the ballots?

Mr. FITZGERALD. That was a list of men whose physical existence was denied, and, as I understand it, these men were brought in to show they were physically alive. Mr. Cunningham asked their names and that they be produced. The ballot-law commissioners for days had been asking Mr. Cunningham to finish the hearing.

Mr. LUCE. I understand all that. I simply wanted to find out about that one point.

Mr. TAGUE. I want to say when Mr. Cunningham was on the stand we asked him to produce a list of those men, and he could not do it.

Mr. LUCE. There is no general dispute that there were about 40 men came in?

Mr. HARRINGTON. Not in this proceeding.

Mr. FITZGERALD. I would not say how many there were. There were quite a number. I would say that approximately 40 is correct. I do not think they were brought in by Mr. Lomasney. He said they came in under Mr. Lomasney's direction.

Mr. LUCE. That is here in the testimony. I am simply trying to get at some of these things that are not in the testimony.

In your notice of contest, Mr. Tague, you say that "Several hundred votes were cast for you in wards 5 and 6, Boston."

Mr. TAGUE. "Cast against me."

Mr. LUCE. You said "For you."

Mr. TAGUE. That is a misprint.

Mr. LUCE. This is your notice to Mr. Fitzgerald here?

Mr. TAGUE. Yes.

Mr. LUCE. It reads "Several hundred votes were fraudulently cast for you." You are addressing this to Mr. Fitzgerald. "Several hundred votes were fraudulently cast for you in wards 5 and 6 in Boston by voters who lived outside the district and who had no right to cast their votes in said wards 5 and 6."

I have not observed that you, in your testimony or elsewhere, have addressed yourself to ward 6.

Mr. TAGUE. We concentrated on ward 5 in the testimony before that commission. That is the primary you are reading from now.

Mr. LUCE. No; that is your notice of contest. Oh, yes; you say "in the primary." Do you still stand by this allegation, that several hundred votes were fraudulently cast for Mr. Fitzgerald in wards 5 and 6?

Mr. TAGUE. Yes. I will go further and say there were a thousand cast for him that had no right to vote.

Mr. LUCE. You say that was the situation in ward 6 as well as ward 5?

Mr. TAGUE. Positively; and I think I have given it in my testimony.

Mr. LUCE. Do you show anywhere in the testimony whether the 37 fraudulent votes in the primary were also fraudulently voted upon in the election—soldiers that were dead, etc.?

Mr. TAGUE. I do not know that we do. I do not think that we do. The testimony before the notaries took that matter up, so far as Mr. Cunningham was concerned, and proved that we had proven that case before the ballot-law commission.

Mr. LUCE. Do you allege in this testimony that these fraudulent votes were cast at the election?

Mr. TAGUE. Yes; I do, positively. We have proven that in this case.

Mr. LUCE. I have not noticed that the allegations of fraud were applied to the election as well as the primary.

Mr. TAGUE. Yes; they were. In my testimony I think you will see where I said they would apply to both.

Mr. LUCE. Could you or Mr. Harrington point out to me in the testimony one or two of those?

Mr. HARRINGTON. The only thing is where we called on Mr. Cunningham and made him submit all the letters he had received from the War Department as to where these boys were, and those are all in the testimony.

Mr. LUCE. That does not quite meet my point. You say "John Smith, dead, had his name voted on in the primary"?

Mr. HARRINGTON. Yes.

Mr. LUCE. I am trying to find out whether you allege that name was also voted on in the election?

Mr. HARRINGTON. Yes, sir. This shows that was voted on in ward 5 in the primary and also in the election. That is an exhibit and part of this record.

Mr. LUCE. Then we can find out from the record whether Freel was voted upon at both the primary and election?

Mr. HARRINGTON. Yes. Mr. Cunningham had the documents from the War Department, which were public documents, and admissible in proceedings like that. He brought them in and read them into the record, and they are in the record under his testimony.

Mr. FITZGERALD. That is in connection with the primaries, because he had nothing to do with the elections. Mr. Luce's questions were directed to the election.

Mr. LUCE. I wanted to know whether or not the fraudulent votes that were alleged to have been cast at the primary were a second time voted upon at the election.

Mr. HARRINGTON. That is our claim.

Mr. LUCE. Is there anything in the testimony that shows you made any preparation to contest these things at the elections, beyond making up a list of the challenges that you contemplated?

Mr. HARRINGTON. There is testimony in there that under the Massachusetts law the election commissioner will decide all questions which shall arise in regard to the election, and we asked them to take up the matter of these challenged ballots. They brought in the opinion of the corporation counsel, saying they had no right to do that, and they refused to do it. Under the present ruling to-day in Massachusetts and in Boston, if you challenge 5,000 men in Boston on election day for fraudulent voting you can not get any hearing before the Boston election commissioners.

Mr. OVERSTREET. Mr. Tague stated a few minutes ago that Mr. Fitzgerald's counsel, Mr. Albers, in summing up his argument, admitted that there were 37 fraudulent votes?

Mr. TAGUE. Yes, sir.

Mr. OVERSTREET. Is there anything in the record that will show that fact, outside of Mr. Tague's own statement?

Mr. HARRINGTON. No, sir.

Mr. OVERSTREET. The reason I asked that question, Mr. Tague is a party to the case and a party in interest, and I wanted to know if it was corroborated by any other testimony.

Mr. HARRINGTON. We tried to get that evidence before the notary, and we could not get the record from Mr. Cunningham. He did not have the record to produce. Mr. Goodwin corroborated what he said about Mr. Albers, saying, although we had proven 37 votes were fraudulent, that it was necessary for us to prove 50 votes were fraudulent. There was a difference of 50 ballots between us.

Mr. OVERSTREET. That is, in the primary?

Mr. HARRINGTON. Yes, sir. Mr. Goodwin's testimony corroborates Mr. Tague.

Mr. ELSTON (?). You say they admitted those 37 votes were fraudulent?

Mr. TAGUE. No, sir; I do not contend that.

Mr. ELSTON. In your testimony here, when you show the votes were fraudulent, either through their absence or somebody else voting their name, do you merely testify on a general presumption that, inasmuch as fraud was shown, that fraud operates against you rather than in your favor?

Mr. TAGUE. I do not quite get you.

Mr. ELSTON. Do you presume in every case of a fraudulent vote that it must have been a vote for Mr. Fitzgerald?

Mr. TAGUE. The best proof of that is in the primary in ward 5, where Mr. Fitzgerald got 275 votes and I only got 22 or 23. Where we showed 150 fraudulent votes it is safe to assume they did not vote for me or I would have been elected.

Mr. ELSTON. You did not bring in any additional testimony to show the identity of the persons who dealt with the fraudulent voters and the methods applied simply raise the presumption that these fraudulent votes were cast for Mr. Fitzgerald?

Mr. TAGUE. Under all the decisions of Congress I believe those precincts should be thrown out.

Mr. HARRINGTON. Both the Tague votes and the Fitzgerald votes.

Mr. TAGUE. I am going to ask the committee if they get a chance

to look over these daily papers from Boston. Mr. Fitzgerald has referred to it. I do not print these papers. These are the daily papers in Boston. They show what happened there last Tuesday at our primary in these same wards where they had to send down the State Guard to protect the ballots and to arrest repeaters, where a State senator was defeated and who makes the same claim of fraud that I have made. These are the daily papers in Boston. There is the Herald, the Globe, the Transcript, the Record, and the Traveler, the leading papers in Boston. They substantiate the charges I make, and they are charges that were made 20 years ago by Mr. Fitzgerald himself.

Mr. FITZGERALD. May I ask Mr. Tague a question right there?

The CHAIRMAN. Yes, sir.

Mr. FITZGERALD. What State senator was defeated?

Mr. TAGUE. Mr. Kearney.

Mr. FITZGERALD. Was ward 5 in Mr. Kearney's district?

Mr. TAGUE. Ward 6 is.

Mr. FITZGERALD. Is ward 5?

Mr. TAGUE. No; but 6 is.

Mr. FITZGERALD. Have you made any allegation in here about that?

Mr. TAGUE. All the way through.

Mr. FITZGERALD. Mr. Luce asked you if you made any allegations about ward 6 and you said no.

Mr. TAGUE. No. I said not in this hearing, but allegations were made in the primary against ward 6, and they were made again to-day by a man outside of this entire atmosphere, a man who is running for another office in the State.

Mr. FITZGERALD. My point was, Mr. Chairman, to show this gentleman has claimed that at the recent election for State senator these very same charges were made, and I want the committee to understand that those charges bore no reference at all to ward 5.

Mr. HARRINGTON. Yes; they did.

Mr. FITZGERALD. Pardon me. They bore no reference at all to ward 5.

And he spoke about the primary the other day. Mr. Luce knows the district. Mr. Kearney's ward consists of ward 2, ward 6 in the south end, and ward 7. As I understand it, the charge he made before the election hearing now being tried out related to alleged illegal registrations in ward 6, and that ward 5, that he complains so much about, was not concerned in that. Isn't that correct?

Mr. TAGUE. I say "In wards 5 and 6 in the congressional district," where all the dirty work was done.

Mr. FITZGERALD. It does not say who——

Mr. TAGUE. Just let me do the talking, please. I did not interrupt you and I do not intend to be interrupted.

The CHAIRMAN. Go on.

Mr. TAGUE. Complaints against the treatment have been filed by one of the election commissioners.

The CHAIRMAN. What ward is that?

Mr. TAGUE. Five and six. The complaint was made by Jacob Wasserman, election commissioner.

I called your attention to the case of Senator Kearney, because that is one of the highest offices in the State, in the same district controlled by the same man that did the dirty work against me.

There are the daily newspapers, the Post, the Herald, the Traveler, the Globe, the Transcript. I have brought them down here so you men can see I am not giving you any idle story, when an official of the City of Boston files such a statement as he does.

I think I have proven every single thing I have charged, as I said before, and every bit of evidence of every description that we could get hold of has been given to you. What I have said they have not denied, and the gentleman now makes the charge of unfairness and all that after his delay. He promised to come into court and he did not come to court, even to be heard under the protection of his own notary. We summoned his own brother, and he did not come. We summoned his friends, and they did not come. I have proven everything I have alleged in regard to every one of the illegal voters, and I intend when this case is cleared up to go further into ward 5. I will clear off that voting list of 1,500 illegal voters. When I went around to the hotel the night before April 1 his assessed voters in ward 5 fell off 1,500 votes. They did not dare to register. They do not dare to register now. And if you gentlemen will figure up the contest in the other case, and what is in the contest now, you will find where there were 1,200 more votes cast one year ago than in ward 5 at the election on last Tuesday.

Mr. ELSTON. How about registration?

Mr. TAGUE. The registration is the same as it was last year. There is registration. For 15 years we have not had a re-registration in Boston. And this man for 30 years has been building up this ward day after day. Day after day he has been building up this ward with all these illegalities. You gentlemen do not believe things like that can exist, and you do not believe a situation can exist where a man can stand up and say "I will give you so many votes, I will give you so many votes, I will give you so many votes," and deliver them.

Mr. LUCE. Was it in 1917, two years ago, that the list was transferred back to the assessor, the list of voters, the police list?

Mr. HARRINGTON. It only went back for one year.

Mr. LUCE. That is what I thought.

Mr. TAGUE. It only went back on trial.

Mr. HARRINGTON. He lost 1,500 that year. The police captains went around seeing the men, doing their duty, and they lost 1,500 names.

Mr. LUCE. Let us get that into the record. When did they go back?

Mr. HARRINGTON. Two years ago, as I remember it.

Mr. LUCE. In 1917?

Mr. HARRINGTON. The police list in 1917 and the assessor's list in 1916.

Mr. LUCE. 1916 the assessor?

Mr. TAGUE. Yes, sir.

Mr. LUCE. And 1917 the police?

Mr. TAGUE. Yes, after one year's trial.

Mr. LUCE. 1918 the police?

Mr. TAGUE. Yes.

Mr. LUCE. And then came your primary?

Mr. TAGUE. Yes.

Mr. LUCE. So the assessor did not cut any figure in that?

Mr. TAGUE. No, sir.

Mr. HARRINGTON. We followed it up on the 1st of April. Afterward the true-name law went into effect; that is, in between Mr. Tague's contest and the present primary. We went down the 1st of April and they lost 1,500 of the assessed voters.

Mr. LUCE. In speaking of figures, we are speaking of round numbers and need not be exactly accurate.

Mr. HARRINGTON. No; just the rough estimate.

Mr. LUCE. Did you offer the list which you say is 1,500 less?

Mr. FITZGERALD. They did not offer anything of the kind.

Mr. LUCE. Can you get the exact figure? How much is it?

Mr. HARRINGTON. I think I have it downstairs somewhere.

Mr. LUCE. I think it would be beneficial to the committee to know exactly.

Mr. HARRINGTON. I will have that some time during the day.

Mr. TAGUE. I have tried to get from the assessor in Boston a list, and it has not come yet. I will try to have it before the committee.

In want to emphasize one fact and say that in all these places where we have charged these illegalities we were unable to get one single boarding house or one single hotel to bring into court their books. They would not bring in their registers to show where these men were registered from that day and how long they were there. The men did come in—the man who ran the notorious Hotel Luzerne, where there were 55 or 56 men registered. We asked him, "Do you know Mr. Barney?" He said he did not, but he was registered from his hotel. When we told him he had been registered from his hotel for four years this man did not know him, and he was registered there every day during April. There was another case at the Hotel Vienna. J. F. Callahan came down the day we closed the case, too late to testify, and he testified that 12 or 14 years before he had registered from the Hotel Vienna; that he had not been in Boston in all that time, except to come in on his ship and go right out again, but still they carried that name for all that time, and they voted the name election day. And the man testified that the day he was voted—the day his name was voted—he was doing time for drunkenness.

I am not going to tire you any more. I am sorry to have taken up your time this morning, because I think it is unnecessary.

Mr. FITZGERALD. I think Mr. Tague has taken about twice as much time as I did, and I will not take any more time of the committee. If conditions are as bad as Mr. Tague describes, of course, there is a job in Massachusetts for Mr. Luce and men of his type. And I think if the Massachusetts laws are violated in the way he describes it is a shame to the State of Massachusetts.

As indicative of the careless way in which Mr. Tague makes statements he says there is no registration. Of course, there is registration. Mr. Luce knows that and everybody knows that.

Mr. LEHLBACH. He meant personal registration.

Mr. FITZGERALD. Of course, there is personal registration. There is personal registration in Mr. Lomasney's ward, ward 5, where there are approximately twenty-three or twenty-four thousand names; and they have got to find the names of the voters on the

register, and if they are not on the register the 1st of April or the 1st of May, whichever one it is, there is a supplemental registration. There is a supplemental registration in Boston every year, amounting to fifteen and twenty and twenty-five thousand voters. I think in wards five and six, some of those large wards, there are as many as from 700 to 1,200 registered every year.

Mr. LEHLBACH. Those are people not on the registration list?

Mr. FITZGERALD. Those are people not on the list or people who have moved or something of that kind.

Mr. LEHLBACH. If a man's name is on the list he does not have to appear and register?

Mr. FITZGERALD. No.

Mr. LEHLBACH. That is what I mean by personal registration, compared with the man that has been dead and buried for 10 years and is still on the list.

Mr. FITZGERALD. I did not want the committee to have the impression that Mr. Tague's language would leave—I would not say he meant it—that they have no such registration.

Mr. OVERSTREET. You have a registration law there that when a man's name is once on, it is permitted to remain, provided he keeps his taxes paid up?

Mr. FITZGERALD. No; he does not even have to pay taxes. The police go around every year, or the assessor, and they make a list at each house in the neighborhood, and they find out who occupies that house, the name of the person actually residing there on the first of April.

Mr. OVERSTREET. It is their duty, if a man is dead or moved away, to strike his name from the registration list?

Mr. FITZGERALD. Certainly.

Mr. OVERSTREET. Then you have a supplemental registration list for those who have become 21 in the meantime or who may be entitled to vote and are not registered?

Mr. FITZGERALD. Yes, sir; or by naturalization and various other ways. In those particular wards, three or four wards there, there is sometimes four or five thousand registered at one time.

Mr. Tague spoke of what he claimed my counsel admitted. He said he admitted there were 37 fraudulent votes cast. Mr. Albers, as I recall it, said this: "Mr. Fitzgerald wins by 50 votes, and you have alleged that there are 25"—or 35, whatever the number was—"even if you get all those, you can not win." That is all Mr. Albers said. And he was corrected by Mr. Mancovitz as to the number, and the charge was only against 35, and the commissioner reported it in his findings; and there is not a bit of evidence that any of that number voted for me. There is not a single bit of evidence that any of those illegal votes were cast for me, not a single fraudulent vote cast for me. Nor were there any soldiers voted upon election day, notwithstanding his statement that the record shows it. The spectacle of a man like myself, with my boys across the water in the trenches in France, and me winning an election by the name of these other boys, fraudulently voted. There has not been the slightest bit of evidence in all this contest of anything of that kind.

If things are in the condition there that he would have you think, it would be the business of Mr. Luce and others of his type to join

this great reformer. If that condition exists in Boston to-day it existed at the time he was in Congress and he accepted his election from that very man at the time he was in Congress. If that is the condition we have in Boston, I say shame on Boston.

He spoke about this Mr. Gray.

Mr. LUCE. I think it would be better not to go into that.

Mr. FITZGERALD. I accept your suggestion. If Mr. Luce does not wish to go into that phase of it, I will not pursue it any further.

He spoke about my running away to Palm Beach. How absurd. I was at Palm Beach 10 days, and the election contest was running 40 days. Mr. O'Connell is a personal antagonist of a good many years, and there is no reason why I should go to that notary. We were willing to appear any place that was proper. Mr. O'Connell, among other questions, asked a woman if she slept with her husband the night before. That was the atmosphere of that hearing.

Mr. LEHLBACH. What about that question?

Mr. FITZGERALD. I think it is an indecent question.

Mr. LEHLBACH. Not at all. He meant was he in the house with her at the time he was charged with casting a vote. What is the use of distorting anything in that way?

Mr. FITZGERALD. I am not distorting anything. I am only giving you the atmosphere of the place. Why should I promise Mr. Tague to go down there? He says I did.

Mr. TAGUE. It is in the record.

Mr. FITZGERALD. Why should I promise him? What obligation was there on my part to promise anybody to go down there? Why should I go down there to prove Mr. Tague's case? I was elected. I had the election certificate under the election laws of Boston and the election laws of Massachusetts. Why should I go down there? I was in Palm Beach, and Mr. Palmer was down there 10 days and I was there 7 days. I was all around Boston. There was no reason why I should go to court before that notary public that Mr. Tague had, where all his charges were made. What did I know about Mr. Lomasney's ward? I did not live in that ward.

Mr. ELSTON. Do you believe, after testimony had been offered by Mr. Tague bearing upon misconduct in the conduct of the election, that it was not incumbent on you at all to clear yourself of any connection with the case?

Mr. FITZGERALD. In the proper place. I knew I could come before this committee, and I knew I could come before the election board in Boston. They are the proper tribunals.

Mr. ELSTON. But this is a particular case. There is no use referring to general conditions.

Mr. FITZGERALD. I knew nothing about the registration.

Mr. LEHLBACH. You can not excuse yourself now for not presenting your case and meeting every allegation in the statement made by the contestant.

Mr. FITZGERALD. My counsel attended to that. I am not asking any favor because I did not go down there. I am only giving my reasons. I knew nothing about the illegal registration in ward 6 or illegal registrations in any of the other wards. There was no reason for me going down there. I just wanted to dispute the statement that I promised to do anything that I did not do.

I do not know whether Mr. Tague made a slip or not, but he said he won his election without Mr. Lomasney's ward. The vote shows in his first election he did not win it without Mr. Lomasney's ward, and he went into ward 5 three or four hundred votes to the bad, and those were made up in Mr. Lomasney's ward; and Mr. Lomasney gave him his election.

Mr. Lomasney's integrity is assailed here, and his method of doing business. I wish he could come down here. Mr. Luce knows Mr. Lomasney. It is not an unusual thing that a condition like that should exist in Boston, because the other day in Philadelphia there was an election between our good friend Hamp Moore and his opponent, and there were wards in Philadelphia where there were 3,000 votes cast and Mr. Moore got all except 175. Because Mr. Lomasney exercises his control over ward 5, and because three-quarters of the people follow his leadership, for Mr. Tague as well as myself, that is no reason why people should believe all these charges, which I contend are baseless.

If that is the situation in Boston and if Boston is powerless to remedy that situation, God help Boston and Massachusetts. But it is not so.

I do not intend to take up any more time of the committee, because I think you have been very patient and very courteous, but I went over to the Library and found in the Shafroth case where Shafroth appeared before the committee, and I fail to see why I should not. I appear before a body of men that are my peers. I have got the seat. The responsibility was mine, and I was perfectly willing to stand here for hours and let Mr. Tague ask me any question he wanted to, or any member of the committee. Then, if the committee, after considering the case, say I was not honestly elected, I will resign from the floor of the House. I do not want it. I would not accept it.

That is my position and has been my position all through.

If this condition exists in Boston, where dead men are being voted upon, soldiers are being voted upon, these charges ought to be proven and that condition ought to be corrected. If such a condition as that exists in Boston, I say "Shame on Boston." I thank you.

MR. TAGUE. I agree with what he says—that something ought to be done; and something is going to be done. I have proven the names of soldiers and sailors voted upon.

MR. FITZGERALD. Who were they?

MR. TAGUE. Just a minute. I proved before the ballot law commission that dead men's names were voted on. I proved it in the case of a man named Runciy, and when they put it up to him Runciy said he did it because the crowd was doing it and he did not want to be yellow.

MR. FITZGERALD. That is not so.

MR. TAGUE. It is in the testimony.

I have gone to every means within my power to prove this case. I have done everything I could do under the law. I have done everything that Congress has asked me to do under the law. I can not go any further, and I am willing to let my case rest right in your hands, where it is. And I am not appealing on any personal

appeal. I am not going to go into personal bickerings. I am not going to try to be unfair. You men know the case. You have studied it. There is the record in the case. It has not been denied in any way, shape, or form. The gentleman had his day in court, had his own notary, who he said he would not appear before.

Great Scott! if the Congress of the United States adopts a law and says you shall appoint a notary to hear your case, and a Member of Congress says he does not intend to abide by your law, what good is the law of Congress? That is what he has done.

Mr. LUCE. Was he ever summoned?

Mr. TAGUE. His attorney came into court and told us he would appear, and he did appear, but he went right out.

Mr. ELSTON. That was not in this case, but merely before the commission.

Mr. HARRINGTON. They notified us he would appear and testify. He never appeared. It is in the record.

Mr. TAGUE. That is all I can say. I will not take up any more of your time.

Mr. FITZGERALD. I never was summoned, and I was around Boston all the time.

(Thereupon, at 12.15 p. m., the committee adjourned.)

CONTESTED ELECTION CASE, TAGUE v. FITZGERALD.

OCTOBER 13, 1919.—Referred to the House Calendar and ordered to be printed.

U. S. Congress House
Mr. GOODALL, from the Committee on Elections No. 2, submitted
the following

REPORT.

Your Committee on Elections No. 2, having had under consideration the contested election case of Peter F. Tague v. John F. Fitzgerald, tenth congressional district of Massachusetts, and having completed its investigation and consideration of same, herewith submits its report to the House of Representatives.

Contestant and contestee were candidates for the Democratic nomination for Member of Congress in the primaries in the September preceding the election. Contestee, on the face of the returns, was declared to have received the nomination, whereupon contestant instituted proceedings to have this result reversed, first before the board of election commissioners of the city of Boston and subsequently before the ballot-law commission of the State of Massachusetts. The validity of contestee's nomination was eventually upheld, but the decision was rendered a few days before election day, too late for contestant to file an independent petition whereby his name could be printed upon the ballots to be used in the general election. The method of voting in Massachusetts is by the voter making a cross after the name of the candidate of his choice where it appears on the ballot. Where the name of the voter's choice is not printed on the ballot, he is permitted to write the name thereon or affix thereto a sticker bearing the name of his choice and then marking a cross after the name thus written or affixed. All votes cast for contestant in the election necessarily were of this character. On the face of the returns contestee was declared elected by a plurality of 238 votes in a total number of 15,293 votes cast for Member of Congress in the entire congressional district.

One thousand three hundred and four ballots cast in said election were disputed. Your committee carefully examined each of said disputed ballots and where possible gave to them such effect as from their examination was obviously the intent of the voter casting the same, within such limitations, however, as the common law and the statutes of the State of Massachusetts prescribe. A large num-

1919

ber of such ballots had affixed to them stickers bearing the words "Peter F. Tague for Congress" or had the name of Peter F. Tague written thereon without, however, a cross thereafter. "No other candidate for Congress was voted for on such ballots. In the absence of a provision expressly rendering such a ballot void in the Massachusetts statute and in the absence of a reported case on that point in this State, the committee held that the intention of the voter to vote for Peter F. Tague was manifest by affixing a sticker or writing the name, notwithstanding that the act had not been completed by the making of a cross thereafter, and counted such vote for Tague. Various other changes in specific cases from the determination of the local canvassers were made, the committee acting, except in the above set forth instance, with practical unanimity. After such reexamination of the ballots, the committee found the plurality of contestee to be 10 without passing upon the validity of 14 ballots challenged at the polls, all for contestee, and 6 soldier votes received in the office of the secretary of state of Massachusetts on days subsequent to the day of election, of which 5 were for contestee and one for contestant.

It is but just to state that in its review of these ballots the committee found the work of the board of election commissioners of the city of Boston to be fair, impartial, and accurate, the difference in its determinations and those of the committee being substantially due to the fact that the Boston commission was guided by an opinion of the attorney general of Massachusetts rendered some 20 years ago, which your committee was unwilling to give the force of law in the absence of judicial support.

Contestant, among the reasons in his notice of contest, charges the following:

E. In ward 5 the large vote which was cast for you was composed in great part of those who had been colonized in said ward for the purpose of manipulation by the political organization of said ward, which colonization and illegal registration and illegal voting was contrary to the State and Federal law.

Various other charges of frauds and irregularities at the general election are made by the contestant. He also charges gross frauds and irregularities in the conduct of the primary election, including the charge of colonization and illegal registration. As these other charges were not determining factors in the committee's conclusions, save as they may have corroborative and cumulative effect with regard to the charge E, your committee refrains from discussing them in this report except as they are incidentally referred to below.

Your committee, after careful and exhaustive scrutiny of the oral testimony taken in the case and the exhibits filed therewith, finds and reports the following facts:

The laws of the State of Massachusetts do not provide for an annual personal registration of voters. Names appearing on the registry list are carried subject to the check of a canvass made by police officers on the 1st day of April of each year. Information not under oath furnished the police on this occasion by a member of a household or by an employee of a hotel or lodging house is sufficient to retain a name on the registry list. Holders of liquor licenses must be residents of the locality in which the license permits them to do business. Municipal employees must be residents of the municipality upon whose pay roll they are. There were a large number of

licensed liquor places in the fifth ward of Boston. The existence of these licenses depended upon the city of Boston voting wet in the local-option elections. Because of the necessity of license holders being residents of the city of Boston and because of the desirability of the employees of these places voting in the Boston local-option election in order to insure the continuance of their employment, such liquor dealers, bartenders, waiters, and porters whose homes, in fact, were elsewhere took advantage of the laxity of the registration laws by causing their names to be placed upon the registry lists of the fifth ward, retaining the same year after year by the expedient of spending a few nights at some address in the ward on or about the 1st of April and voting in the primaries and on election day and incidentally in the local-option election in the fifth ward of Boston. The same state of facts obtains with regard to municipal employees, particularly with regard to those who obtained their appointments through Martin M. Lomasney, the acknowledged political leader of the fifth ward. This state of affairs is particularly prevalent in precincts 4, 8, and 9 of said ward. There also are located in these three precincts 28 hotels or lodging houses. From these places 230 votes were cast, 153 of which came from seven lodging houses.

Your committee finds and reports that large numbers of names of persons were handed in to the police by the clerks of these lodging houses as being domiciled there, who, in fact, were not such residents and of whom, subsequently, no trace could be found.

Your committee finds and reports that the total vote cast for all candidates for Congress in the fourth, eighth, and ninth precincts of the fifth ward was 906. As a result of an investigation a list of 316 names of persons who had voted in the election in these three districts was compiled, who *prima facie* evidence indicated were fraudulently upon the registry list. These were summoned to appear and testify before the notaries public taking testimony under the authority of and by the direction of Congress. Service of these summons was intrusted to the United States marshal of the judicial district and his deputies. Of this number 188 could not be found, either at the addresses from which they voted or elsewhere. Seventy-seven upon whom process had been duly served refused to appear. Of the remainder who appeared and by their testimony sought to justify the legality of their vote, a large majority were not in fact domiciled at their voting address, but had families elsewhere with whom they actually made their homes, and their pretensions to a residence in these precincts of ward 5, upon which they could legally predicate the right to vote there, were the flimsiest subterfuge. In addition to this testimony, in 28 of the cases of alleged fraudulent registrants who refused to obey the congressional process, the testimony of women who knew these men and their families proved their non-residence at the addresses voted from.

Your committee finds and reports that fully one-third of the total number of votes cast in the fourth, eighth, and ninth precincts of the fifth ward of Boston were fraudulent.

Your committee further finds and reports that Martin M. Lomasney is the political boss of the fifth ward; that he is nominally a Democrat but that when it suits his personal ends he has no hesitancy in wielding his power to encompass the defeat of Democratic candidates; that he and his lieutenants work through an organization

located in the fifth ward, known as the Hendricks Club; that he has built up his power through a number of years largely by means of the fraudulent votes of the liquor dealers, bartenders, and city job holders illegally registered in his ward and the padded returns of alleged residents in the cheap lodging houses. Lomasney admits that he used the full powers of his organization and resources to defeat contestant.

As an example of the methods employed, your committee refers to the fact that at the primary election the names of a number of young men who were absent from Boston in the military or naval service of the country were voted on, among these being the son of the president of the Hendricks Club and the son of the secretary of that organization. In each case where the name of the son was thus fraudulently voted on, the father was in charge of and present at the polling place at which such vote was cast.

Your committee further points out that one of the workers on behalf of the contestee, subsequent to the selection, admitted to a friend of contestant that he had caused to be prepared and distributed stickers with no gum attached, in order that the person seeking to vote for Tague would be thwarted in this by the falling off of the sticker after the ballot had been deposited in the box. Such a sticker without gum was produced in evidence, but there was in fact no direct evidence produced showing the distribution at the polls of such ungummed stickers by workers for the contestee. In corroboration of the admission of the supporter of contestee, however, your committee found on 10 ballots crosses after a blank space, with evidence that the paper in said blank space had been moistened, apparently in an endeavor to affix something thereto.

That Lomasney exercised in this election control over large numbers of these illegal registrants is demonstrated by the following incident. Process under authority of ballot-law commissioners of Massachusetts had been served on a large number of alleged fraudulent voters in the investigation of the primary election. They refused to appear. The commission intimated that their absence might militate against the contestee. Lomasney thereupon appeared in the court room at the head of some 45 alleged witnesses. He admitted when testifying in the congressional investigation that he had ordered these witnesses produced. He refused to render like assistance to Congress. Questions as to his ability and willingness to assist Congress in the production of evidence sought under its authority in conformity with the procedure prescribed by it in statutes were excluded by the notary public, Mancowitz, who functioned on behalf of contestee. In this the notary grossly exceeded his authority. His performance during the hearing presents a curious admixture of ignorance and impudence. The attitude of Lomasney, Mancowitz, and certain others present at the congressional proceedings on behalf of contestee was one of defiance of the authority of Congress and resentment at its interference in what they deemed their local affairs.

In the face of all this evidence contestee contents himself with a bare denial and produces no testimony to refute it.

Having found the facts to be as above set forth, it remained for your committee to apply such remedy as would do justice and would conform to the law.

Early in the history of congressional contested-election cases, the doctrine was developed that where precincts or districts were so tainted with fraud and irregularity that a true count of the votes honestly cast was impossible, such precincts or districts must be rejected and the parties to the contest may prove aliunde and receive the benefit of the votes honestly cast for them. As early as the Fourteenth Congress, 1815–1817, in the case of *Easton v. Scott* (Rowell's Digest, 68), the committee unanimously recommended that the alleged return from the precinct of Cote Sans Dessein be rejected and submitted resolutions declaring petitioner entitled to the seat. This report was recommitted to the committee with instructions to receive evidence that persons voting for their candidate were not entitled to vote on the election. Apparently the recommendation of the committee to reject the vote of the precinct was not questioned. The doctrine thus laid down by the Elections Committee in the Fourteenth Congress has been followed in an overwhelming number of cases, the most recent being—

Horton v. Butler, twelfth Missouri, Fifty-seventh Congress. (Moore's Digest, 15.)

Wagner v. Butler, twelfth Missouri, Fifty-seventh Congress. (Moore's Digest, 20.)

Connell v. Howell, tenth Pennsylvania, Fifty-eighth Congress. (Moore's Digest, 23.)

Gill v. Catlin, eleventh Missouri, Sixty-second Congress. (Moore's Digest, 52.)

Gill v. Dyer, twelfth Missouri, Sixty-third Congress. (Moore's Digest, 84.)

The contention that by this procedure honest voters lost their franchise and that the parties are deprived of votes honestly cast for them is overcome by the rule that evidence aliunde may be received to establish what persons honestly voted in such precincts and for whom. Contestee after notice of the charge and after knowledge of the testimony in support thereof that so many fraudulent votes had been cast in the fourth, eighth, and ninth precincts of ward 5 in the city of Boston as to vitiate the returns from that district had ample opportunity, particularly in view of the influence and control exercised over such voters in these precincts by his supporter, Martin M. Lomasney, to produce persons lawfully entitled to vote in said precincts and to prove by their testimony that fact and that they had voted for him. It has at times been suggested that a proper procedure would be to deduct from the return of a tainted precinct the number of fraudulent votes proved and if it can not be established for whom such fraudulent votes were cast to apportion the loss pro rata between the contesting parties. This course would result in the election of the contestant. Your committee, however, is unwilling to adopt this procedure and base its recommendations thereon, because it believes that the number of fraudulent votes in these precincts was greater than the number actually proved; that in the conditions obtaining such fraudulent votes were not cast pro rata between the parties to this contest; that it is a bad precedent and consequently your committee is unwilling to assume responsibility therefor and that as a remedy for the conditions developed by the evidence it is inadequate. Your committee rejects the suggestion that the seat be declared vacant. Such a

course in the state of facts proved in this case is contrary to the established practice of the House of Representatives. It is unfair to the contestant and to the honest voters of the tenth congressional district of Massachusetts, the majority of whom voted for him. It is repugnant to the legal maxim that there should be an end to litigation. It is withholding by the House of Representatives the full measure of its disapprobation which it ought to set upon the situation disclosed in this case.

Rejecting these three precincts, your committee finds that the contestant, Peter F. Tague, on the face of the returns, without considering the changes made by the committee in its recount of the ballots, received a plurality of 316 votes over the contestee, John F. Fitzgerald. Giving effect to the revision of the count of ballots, your committee finds that contestant had a plurality of 525.

For the reasons assigned, your committee recommends to the House the adoption of the following resolutions:

1. That John F. Fitzgerald was not elected a Member of the House of Representatives from the tenth congressional district of the State of Massachusetts in this Congress and is not entitled to retain a seat herein.

2. That Peter F. Tague was duly elected a Member of the House of Representatives from the tenth congressional district of the State of Massachusetts in this Congress and is entitled to a seat herein.

LOUIS B. GOODALL.

FREDERICK R. LEHLBACH.

J. A. ELSTON.

M. E. RHODES.

A. W. JEFFERIS.

CORNELIUS A. MCGLENNON.

MINORITY VIEWS.

With the conclusion of the majority of the committee that the seat now occupied by John F. Fitzgerald should be declared vacant I agree, but I am of the opinion that Peter F. Tague should not be declared to have been elected, for these reasons: 1. It is not possible to show that Mr. Tague received a plurality of the votes legally cast. 2. The illegal registration of which Mr. Tague complains and which furnishes the only sufficient ground for vacating the seat was a continuance of the conditions that Mr. Tague twice accepted when to his advantage, and that aroused his protest only when turned to his detriment. He may not profit by fraud at which he had connived. 3. To reject the polls of three precincts is not justifiable. 4. When an election is tainted with fraud, the proper remedy is a new election.

1. After careful examination of all the disputed ballots, the committee agreed that with the most liberal interpretation of the expression of the will of the voter for which any Member contended, the plurality remained for Mr. Fitzgerald. This could be overturned only by showing that votes were illegally cast. There was some evidence of impersonation, or what is commonly known as repeating; but it bore mainly on the primary, and there was no proof that it sufficed to change the result of either the primary or the election, nor was it probable that such proof could now be obtained. This narrowed the question to one of illegal registration. Here insuperable difficulties lie in the way of proof warranting the rejection of specific ballots. Before the days of the Australian system such proof could often be had by showing what party ballot a man had been seen to cast or by showing other circumstances warranting reasonable deduction without reliance on the man's own testimony. Under present conditions the man's own testimony is usually the only recourse, and it is palpable that this is most dangerous. Opinion is divided as to whether, in view of the secrecy contemplated by the Australian system, a man may be compelled to testify as to how he voted. Possibly if it proved that he was not entitled to vote, testimony could be forced, but it would deserve little credence. The motive for perjury is strong and a false declaration would have slight element of danger to the witness, for it could rarely be contradicted. In the present case it was shown that illegal registration had also taken place in the wards carried by Mr. Tague, and although no attempt was made to prove it existed there to such an extent as in the wards carried by Mr. Fitzgerald, there was nothing to indicate that even if it were possible to prove in specific instances for whom illegal votes were cast, it would be shown that no considerable number of such votes were cast for Mr. Tague.

2. Mr. Tague had been twice elected to Congress under the same conditions as those of which he now complains. In each instance he sought and accepted the support of Martin M. Lomasney, a ward leader whom he now charges with being responsible for the frauds alleged. As a candidate for a third term, he again sought the support of Mr. Lomasney, and only when that was refused did he show any

objection whatever to the methods by which he had profited and with which he was thoroughly familiar. For many years it has been common knowledge in Boston that many men whose real homes are in the suburbs, make an annual pretense of living in the locality here concerned, for financial, political, or social reasons. It has also been commonly known that men in unreasonably large numbers have been registered from lodging houses, with the effect of making impersonation easy, inasmuch as repeaters can vote on the names of such men with little fear of detection. Mr. Tague took no offense at this state of affairs while it accrued to his advantage. He then made no request to the election commissioners that lists should be purged. He employed no investigators, no challengers. He did not assume it to be a part of good citizenship to lay the facts before the legislature and suggest a remedy. He acquiesced in what he now declares to be fraud, because that was then to his benefit. It is a cardinal principle of justice that he who seeks equity must come into court with clean hands. A man may not profit by fraud both coming and going. Mr. Tague is estopped by his previous acquiescence.

3. The proposal to change the result of an election by rejecting the poll of three precincts raises a question of fundamental importance that the House may usefully consider. It seems rarely if ever to have been fully discussed on its merits, either because involved with partisan considerations or because ignored. Yet resort to the device has become so frequent, its dangers are so manifest and manifold, it so lends itself to partisan abuse, that on an occasion when the issue is between two men of the same political faith, the House may well take advantage of the opportunity to declare, without suspicion of prejudice or bias, what it may deem to be the true rule.

The question rose in the second contested election case coming before the House. It was in the Second Congress that Gen. James Jackson contested the seat of Gen. Anthony Wayne because of gross frauds in a Georgia district. The House did not hesitate to vote unanimously to unseat Wayne, but when Jackson urged that the seat should be given to him by rejecting the returns of certain counties, the House refused. To be sure it was by a tie vote, the Speaker deciding, and it seems to have been feared that if new evidence were admitted, it might put the House in an awkward position by showing Wayne to have been elected, so that the precedent is not clear, but at any rate the proposal to reject certain polls did not prevail.

In the next Congress, in the case of *Van Rensselaer v. Van Allen*, the committee reported that according to the law of the State of New York the fact that more votes were cast for the petitioner in a town than were returned for him could not, if proved, suffice to set aside the vote of the town, and the decision was in favor of the sitting member.

In the case of *McFarland v. Culpepper*, in 1807, irregularities were proved in three out of five counties, and if the returns from these three were thrown out the seat would go to the contestant. Culpepper alleged that if he had time he could prove irregularities in the other two. The report is directly in point here:

The committee are of opinion that, even presuming the vote in Moore and Cumberland to have been legally taken, it would be improper to deprive the other three

counties of a representation for the fault of their election officers, etc., therefore think it most proper to give the citizens of that district an opportunity to have another election.

So the seat was vacated.

Ten years later, in the case of *Easton v. Scott*, the committee by throwing out the poll of one township, where 24 votes were cast, would have given the seat to Easton, but the House recommitted the report with instructions to the committee to take evidence. At this the committee balked, partly because of the remoteness of the district, which was in the Territory of Missouri, and the expense of collecting testimony. In the end a motion to discharge the committee was amended by a substitute vacating the seat.

Although there were two or three cases where a committee showed itself not averse to rejecting the entire vote of certain precincts, towns, or counties, yet for nearly 70 years after Congress first sat in no instance was the result of an election changed by such a rejection.

Then other doctrine gained ground. It may first have won judicial sanction in Pennsylvania, where in 1853, in the case of *Juker v. Commonwealth* (20 Penn. St., 484), the election of a religious society having been held partly in a schoolhouse and partly in a yard, the court threw out the vote cast in the yard, even though the voters there had been excluded from the schoolhouse. Four years later, in *Mann v. Cassidy* (1 Brewster, 11), the court held:

The entire proceedings are so tarnished by the fraudulent conduct of the officers charged with the performance of the most solemn and responsible duties that we would not only have felt abundantly justified, but it would have been our plain duty to throw out the return of every division to which we have referred. This we are precluded from doing for the reason already stated.

That is, the erasure of certain specifications from the petition. Upon this dictum was based a long line of decisions mostly the outcome of election frauds in Philadelphia. Reckless application of the doctrine did not, however, escape judicial criticism. Thus in *Batturs v. Megary* (1 Brewster, 162) Justice Brewster, agreeing as to the right, nevertheless said:

I am of opinion that such a remedy should never be applied save in extremest cases. First, because you punish an innocent candidate for the acts of persons over whom he had no control, and who may have been corrupted by the opposite party to disobey the law in order that a legal majority in a certain division may be crushed by judicial decree. Second, because you punish innocent and legal voters when you disfranchise them for the crimes of judges and inspectors.

More emphatic still was Chief Justice Thompson, dissenting in *Election Cases* (65 Penn. Stat. 20, 44):

I maintain that there is nothing which will justify the striking out of entire divisions but an inability to decipher the returns, or by showing that not a single vote was polled, or that no election was legally held. If anything short of this is to have effect, the right of every elector is at the mercy of the election officers.

In the following year (1871) in *Dechert's case* it was asserted by the Pennsylvania Senate that "the dangerous and odious power of counting men in, or counting them out, of their seats in the legislature, by the rejection of returns of district elections, has no more foundation in the laws of the Commonwealth, than in the general principles of justice." Brightly, in that year preparing his *Leading Cases on Elections*, said in it that "perhaps no question which can

arise in reference to the elective franchise has, in Pennsylvania, given rise to more diversity of opinion than the circumstances under which the poll of an entire division may be rejected." He himself held: "The theory that for gross disregard of the provisions of the election law on the part of officers a poll may be rejected though legal votes may have been polled, which the parties are prepared to prove, is at variance with the principles on which our institutions are founded." He showed that the opposing views were those that had been adopted by political parties. In fact this had been made a party question into which the courts were dragged. The effect on the courts was exposed in the notable Pennsylvania convention of 1873. There Theodore Cuyler said: "This decision of contested-election cases has done more to shake the confidence of the people of Pennsylvania in the purity and integrity of their courts than any other class of questions that has come before them."

Meanwhile partisanship had inflicted the pernicious doctrine on Congress. That may not have been the case with the first instance, where the result was changed by throwing out a precinct, *Otero v. Gallegos*, Thirty-fourth Congress (1856), but this was a Territory of New Mexico case of relatively slight consequence. With *Howard v. Cooper* in the Thirty-seventh Congress (1860), a political use of the expedient clearly began. Brightly characterizes this case as notoriously partisan and entitled to little credit, yet it was to serve as a precedent supposed to justify many questionable findings. At the same session *Blair v. Barrett* was decided by throwing out three precincts; in 1864, in *Knox v. Blair*, the committee rejected a precinct; and in *Washburn v. Voorhees*, in 1866, the committee rejected two precincts.

The device lent itself peculiarly to partisan needs and by this time contested-election cases had become political questions. During a long period after the Civil War the chief reliance of the partisan was the throwing out of entire polls. In one instance the whole city of Charleston was disfranchised; in another the whole city of Norfolk. Now that the fires of partisanship have somewhat died down, it may be admitted that the application of the principle had much to do with determining the Hayes-Tilden contest.

Possibly in many of these instances a just result was reached, even though by dubious means. Yet it is the age-long experience of mankind that it is better to keep within the lines of ordered justice than to disregard its canons for temporary ends.

Attempts to defend the practice on grounds of principle have been singularly rare. One I find in the case of *Myers v. Moffet* (2 Bart., 564), where the majority of the committee, excluding a division, said:

If their exclusion works any disfranchisement of any voter, he will be glad of the opportunity to see to it hereafter that such men shall not deprive him of his rights, and will concur in a vindication of the law, which it is hoped will aid to assert the purity of the ballot box.

This case, too, is characterized by Brightly as notoriously partisan, a judgment not inharmonious with the specious nature of this particular argument. Of like nature was the defense put forward by the Arkansas court in *Patton v. Coates* (41 Ark., 111) in 1883:

The wrong * * * defeats a free election, and every honest voter and intimidated or deceived voter is aggrieved thereby. It is his interest to sacrifice his own vote to right the evil.

But the court failed to show how giving an election to a minority candidate by throwing out polls will right the evil.

More tenable was the ground taken by the New York court in *People v. Thacher* (55 N. Y., 525), in 1874:

In election cases, if the return is discredited so that it is no longer evidence of the right of the party claiming under it, then the question who received the majority of the votes is to be ascertained by other legal proof. The vote of the district or precinct to which the return relates is not to be disregarded. The electors ought not to be disfranchised because no return is made or because it has been rendered valueless by the fraud or mistakes of others.

The doctrine that there should be resort to other proof is laid down in numerous cases, but unfortunately they are silent as to what should be done if such proof is not available. For such a situation it seems to me the true rule should be that laid down by a majority of the committee in the congressional case of *Curtin v. Yocum*, in 1880:

It will be seen from all the authorities that where a new election can be held without injury it is the safest and most equitable rule to declare the election void and refer the question again to the people in all cases where there are a greater number of illegal votes proven, but for whom they voted does not appear, than the return majority of the incumbent.

Such has been the invariable practice in the State whence the case before us comes, and although State practice has no binding control over Congress, the wise custom has been to give it weight, and perhaps this may with especial force be urged as to such a State as Massachusetts, universally admitted to have been exceptionally circumspect and careful in its legislative and judicial processes. In the 342 contested-election cases reported in Massachusetts from 1780 to 1902 there is not a single instance where the result of an election was reversed by throwing out a single precinct, ward, or town. In one case, that of *Perry v. Montague*, in 1874, the majority of the house committee recommended the rejection of the vote of one of five towns, which would have seated the contestant, but the house, by a vote of 121 to 74, amended the minority report by declaring the seat vacant. There may have been later cases where the rejection of polls was suggested, but the Massachusetts view has been that admirably illustrated in the case of *Splaine v. McGahey*, coming in 1885 from the very locality now under consideration, on the score of irregularities of the same nature as those of which there is here complaint. There was evidence tending to show votes cast by men who did not reside in the district, votes on the names of men who had died in the interval between registration and election, votes on the names of others who did not go to the polls. The committee reported it impossible to determine which candidate was elected, and recommended declaring the seat vacant, which the senate proceeded to do.

This I urge to be the equitable course in the present instance.

For such a course there is plenty of congressional precedent. I find at least 16 cases in which the House has declared the seat vacant under circumstances more or less analogous to those here under consideration. In nine of these cases the House took that action against the advice of its committee, which in six cases would have given the seat to the contestant, in three would have retained the sitting Member.

4. Furthermore, I urge the House by its action to take advantage of the opportunity to lay down a general rule that may appeal to

the good judgment of our successors. At a moment when there can be no suspicion of partisan bias, under circumstances fully warranting a declaration of sound principle, let it be said that whenever the result of an election is put in doubt by irregularities or fraud of a serious character, the remedy shall be the vacating of the seat, with a new election whenever practicable. Thus we may end the disfranchising of honest voters because of the blunders or crimes of men over whom they have no control. If the fault be one that can be corrected by legislation, the trouble and cost of a new election will spur the lawmaking body to action. If the fault be one due to low standards of political conduct, the same spur will be felt by the constituency responsible. In neither case would betterment of conditions be so likely to result from merely transferring the seat from one man to another. Thus expediency and equity alike advise that in the present instance the seat should be vacated and a new election held.

ROBERT LUCE.



CONTESTED-ELECTION CASE, TAGUE ·v. FITZGERALD.

OCTOBER 18, 1919.—Referred to the House Calendar and ordered to be printed.

U. S. Congress House
Mr. OVERSTREET, from the Committee on Elections No. 2, submitted
the following

MINORITY VIEWS.

[To accompany H. Rept. 375.]

The contestant, Mr. Tague, in our opinion utterly failed to carry the burden he assumed in the contest. He failed to prove the allegations made in his case. Mr. Fitzgerald was elected on the face of the returns and has a certificate of election from the governor of Massachusetts and the governor's council. And he, of course, is entitled to his seat, unless the contestant can show to the contrary.

When a Member of Congress is charged with the duty of passing upon the title of the office of one of his colleagues he assumes a delicate and solemn responsibility. Wholesale charges of fraud, intimidation, bribery, and coercion were made by the contestant and his counsel, and these charges were in no instance supported by proof.

The contestant alleged that several hundred ballots were cast for him with stickers having his name thereon without a cross opposite his name, and contended that if these ballots were counted for him there would be more than enough of such ballots to change the result of the election. The committee sent for, and had brought before it, all of the contested ballots and examined them carefully one by one.

Every ballot having a sticker with the name of Peter F. Tague without a cross was counted for the contestant, although contrary to the law of the State of Massachusetts. Every ballot having the name of John F. Tague, William H. Tague, or even Tague written on it with pencil or ink and without a cross was counted for the contestant. He was given the benefit of every doubt in counting the contested ballots.

Examination with a microscope by experts did not furnish any evidence to substantiate the charge that stickers lacking gum were distributed. The fact that not a single voter testified to having received a sticker without gum on it made it seem to some of the committee at any rate extremely improbable that the distribution of such stickers was general, if indeed it took place at all.

If certain ballots that were counted for Mr. Fitzgerald, or thrown out by the commissioners and afterward counted for Mr. Tague by

1214

our committee, could have changed the result by electing Mr. Tague, then the committee would be justified by congressional precedent. But the most liberal count of the ballots by the committee failed to change the result.

As the case stood after an examination of the ballots after which the committee gave Mr. Tague everything he claimed, contestee had a plurality of 10 votes, not counting challenged votes or soldiers' votes that came in late, which, if counted, would have given contestee a plurality of 25. To overcome these 10 votes so that contestant could win, it was only necessary to prove 11 cases of illegal registration.

If 11 cases or more of illegal registration were shown, and it was also shown that these men had voted for the contestee, or from all the circumstances it could be reasonably inferred that they did, these votes taken from the contestee would give contestant a plurality.

If contestant could have proven these illegal registrations, what is the necessity of disfranchising hundreds of honest voters?

The majority committee report states that there are 316 cases of illegal registration on *prima facie* evidence. We deny this, but, if that is so, and they could show that more than 11 cast their votes for contestee, contestant would be elected, and no honest voter would be disfranchised.

The action of the committee is indefensible for the reason that hundreds of honest voters are disfranchised on insufficient evidence of illegal registration, whereas if only a few cases were proven conclusively the same result could be obtained.

There is not one case of illegal registration conclusively proven. There was no proof of one illegal vote cast for Mr. Fitzgerald. There has not been a single name stricken from ward 5 voting list on Mr. Tague's charges; in fact, recent information discloses that the voting list this year just completed shows 280 more voters registered in ward 5 than a year ago when this election took place.

The majority of the committee bases its decision on the unsupported testimony of contestant, which was the result of information received from canvassers, and clearly inadmissible in any court of law, and never before was received before a congressional committee.

The contestant in his brief practically admitted that he had not proved his allegation of illegal registration. He claims, however, that because his unsubstantiated allegations were not answered by the persons involved he is excused from proving them. This position is unsound for the reasons:

First. The burden of proof is on the contestant.

Second. There is a presumption that the certified voting lists are correct and in compliance with the law.

Contestant attacks the right of many persons to vote where listed and registered in this district, claiming that they have no legal domicile there.

Every man must have a domicile. It is undisputed that he has a right to choose his domicile. In the case of men having several homes, they have the right to choose any one of them as their domicile. In the case of men moving from place to place, it is clearly their right to choose their domicile, and the question of domicile is a question of intent.

On page 415, Digest of Election Cases, appears the following on the question of residence and domicile:

No question has been more discussed and to less purpose than the definitions of "residence" and "domicile." No two authors precisely agree in their attempt to define them. But all agree upon the universal principle that every man must have a domicile. We can well understand why a strict rule should apply in the definition of these terms, as has ever been and will be, in regard to domicile where rights or property, the law of descent and distribution, the law of the duty of the citizen or the subject to his government are involved. We can readily see in regard to suffrage why the strictness of the rule should not apply in our government. While the extent to which suffrage may be carried is under the control of the law power of the several States, conferred by their constitutions, yet suffrage in some form is inherent in our government and forms its very basis. Without the free and legitimate exercise of this right we can have no republican government, and all laws passed by the States requiring its exercise in particular localities and requiring a residence are not to abridge the sacred right, but to guard and protect it from abuse and violation.

In the late edition of the American Cyclopedia we find domicile defined to be—

The place where by law a man is deemed to reside. There has been much confusion and conflict of opinion as to what shall constitute a man's domicile, which is not necessarily the same as his residence. The term "residence" has no other meaning than actual residence and engagement in business, which it will be seen does not per se constitute a domicile in respect to other legal incidents.

Bouvier says:

But it is to be observed that circumstances which ought to be held sufficient to establish a commercial domicile in time of war, and a matrimonial domicile, or forensic or political domicile in time of peace, might be such as would establish a principal or testamentary domicile, for there is a wide difference in applying the law of domicile to contracts and wills.

(Phill. on Dom. 11 Pick., 419; 10 Mass., 488; 4 Wash. C. C. E., 514.)

There is a wide difference between a man's residence and his domicile. He may have a domicile in Philadelphia, and still he may have a residence in New York.

(Robts. Ecc. R. 75.)

We think the point of view herein expressed is one that appeals to the common sense of every American citizen and in strict accordance with the principles underlying our Government.

Ward 5 comprises nearly the entire business section of Boston, with its great hotels, docks, and wharves, great banks and warehouses, the two great railroad terminals of Boston, the statehouse, post office, customhouse, city hall, and the county courts. It has a highly diversified population in which are represented all of the European countries, as well as the native Yankee. There are many small hotels and lodging houses. There are a great many places where men only live for a short while, and move from place to place. There are many unfortunate men who are compelled by force of circumstances to live in these cheap places, but who have the right to a domicile and the right to vote. These men can not be disfranchised because they happen to live in a different house or on a different street at election time than they did at the time they were listed by the police.

In Boston, men, in order to vote at election, must be listed where they reside the first week of April. If they are so listed they have the right to vote from such residence if qualified and later registered. (See sec. 14, chap. 835, acts of 1914.)

All of the witnesses stated that they were listed and registered in ward 5 where they lived and nowhere else. Now, if these men

live there intending that it shall be their domicile, they can not be listed elsewhere, and without listing they would not be entitled to vote elsewhere, and would therefore be disfranchised.

Here is the law on this matter:

SEC. 69. In Boston there shall be a listing board composed of the police commissioner of said city and one member of the board of election commissioners.

SEC. 70. The listing board shall, within the first seven week days of April in each year, by itself or by police officers subject to the jurisdiction of the police commissioner, visit every building in said city, and after diligent inquiry make true lists, arranged by streets, wards, and voting precincts, and containing as nearly as the board can ascertain, the name, age, occupation, and residence on the first day of April in the current year, and the residence on the first day of April in the preceeding year, of every male person twenty years of age or upwards, who is not a pauper in a public institution, residing in said city. Said board shall designate in such lists all buildings used as residences by such male persons in their order on the street where they are located, by giving the number or other definite description of every such building so that it can be readily identified, and shall place opposite the number or other description of every such building the name, age, and occupation of every such male person residing therein on the first day of April in the current year, and his residence on the first day of April in the preceding year.

The board shall place in the lists made by it, opposite the name of every such male person or woman voter, the name of the inmate, owner or occupant of the building, or the name and residence of any other person, who gives the information relating to such male person or woman voter.

(Chap. 835. Listing and Registration of Voters in Boston.)

As shown above in the statute the name of the informant must be given to the police, so that this evidence was available to show whether or not these men were bona fide residents.

Under this system in ward five, the police listed over 22,000 male persons on the 1st of April, 1918, six months before the election, and at a time when Mr. Tague and Mr. Lomasney's relations were most friendly, as shown by Mr. Tague's letter to Mr. Lomasney, which appears in the evidence, under date of March 28, 1918, in which he asked him to send him the name of a contractor whom he could use to get in on contracts to build some of the cantonments, yet but 4,800 of these 22,000 possible voters were registered on election day in November. Could any stronger answer be made to Mr. Tague's charge of colonization?

It is also worthy of note that an examination of the voting lists in the three precincts to be thrown out shows that the large majority of the voters to be disfranchised were on the voting list all the time that Mr. Tague was in Congress, and were known as his supporters, in fact were responsible for his first nomination. This does not look like colonization to defeat Mr. Tague.

In order to decide that there was illegal registration so as to invalidate any of the contestee's votes, it must be shown either that the men charged were acting in conjunction with the contestee or his friends in fraudulent registration or that the informant or landlord were doing the same. This was not shown in any case.

Having failed to properly prove this, the contestant, over contestee's objection, read a prepared list of the names of persons alleged to be the same persons registered in ward 5, and alleged to be residents of other districts in other parts of the city, or in Boston suburbs.

This evidence was gathered by investigators, whose names the contestant would not divulge, and which was not sworn to. He refused to allow contestee's counsel to examine the reports from which he was reading.

All of this evidence comes within the objection of hearsay evidence cited before, and in *Whyte v. Harris*, Thirty-fifth Congress (1 Bart., 257-267), where a like situation arose, it is there said that—

Where the evidence as to the number of illegal or intimidated votes consisted of lists made by persons hired to canvass the neighborhoods, whose information was hearsay, often several times removed, and whose lists were not always sworn to by the men who made them, the committee was unanimous in disregarding the testimony.

We especially call attention to the fact that the opinion of this committee was unanimous on this question.

To show something of the character of the men who select their domicile for voting purposes in some of the big hotels and clubs in ward five, and whose wives and families live elsewhere, and who will be disfranchised if the action of the majority of the committee is sustained by the House, these names might be mentioned: Mr. Charles Burrill, treasurer of the Commonwealth of Massachusetts; Mr. Alfred Mitchell, city auditor of Boston; Mr. Alfred Hemneway, leading attorney of Boston, Mass., and partner of the late Gov. John D. Long; Mr. A. C. Ratchesky, leading Boston banker and State food administrator; Mr. Bernard Rothwell, former president of the Boston Chamber of Commerce; Mr. John J. McCarthy, president of the Boston Hotel Men's Association, and numerous others, who have suburban homes, but because of their interest in Boston civic welfare and other reasons choose to select their domicile in the city. Of course, these men are no better than the men who live in the lodging houses, but the fact that they are all men of the best character emphasizes the point of view which men of the highest standing in Massachusetts have on the question of domicile.

As an indication of the manner in which Mr. Tague's forces issued the summonses, the evidence shows that 90 subpoenas were given to one of the assistant marshals at 11.30 on the last day that summonses could be legally served, and these summonses were not accompanied by fees. Although Mr. Tague's hearings lasted 40 days no attempt was made to bring in witnesses until the last two or three days, and when many of those wanted failed to appear because of improper summons, sickness, and absence from the city, these wholesale charges of illegal registration were made. The only evidence the committee has in regard to the so-called illegal registration is the unsupported statement of Mr. Tague on the witness stand before his own notary in which he gave testimony gathered according to his own admission by various investigators of his own choosing, of illegal registration of from four to five hundred men.

The majority report would seem to indicate that the contestee should have proven that he was elected.

It says that he could have easily brought hundreds of men in to show that they voted for him.

It is a new doctrine that the burden of the proof is on the contestee. The burden is absolutely on the contestant, and it does not shift. There was no responsibility on contestee to bring any of these men to the hearing. If contestant could not prove his case, there was no obligation, legal or moral, on part of contestee to help him, and it should not be lost sight of that Mr. Tague has never appealed to the election officials or courts of Massachusetts for redress, contenting himself from the start with the statement that he would fight his case out on the floor of Congress. It is unbelievable that a State like

Massachusetts would permit such practices as Mr. Tague alleges without proper means of redress.

Upon such flimsy evidence as this Mr. Tague's whole case rests. He has not proved a single one of the charges made by him or made in the brief and argument of his counsel. Both of them charged the various election officials in Massachusetts who had anything to do with the case with crookedness and wrongdoing, to Mr. Tague's disadvantage, yet every member of the committee is satisfied that these officials acted fairly and conscientiously in the performance of their duties. The committee was told by Mr. Tague and his counsel that hundreds of ballots would be found upon which a spurious sticker had been placed, yet not one was found. No effort has been made by him as far as the official records show to purge the ward 5 voting lists of any one of these so-called illegal voters.

Instead, Mr. Tague himself, according to the uncontradicted testimony at the hearings of this case, stands convicted of using his own home and his mother's home for what he terms fraudulent registration.

On page 642 is the testimony of Patrick F. Goggin, a captain in the Boston fire department, who admitted under oath that he registered from Mr. Tague's own home, 21 Monument Square, Charlestown, Mass., for voting purposes, while his wife and four children were living in Somerville since 1914.

On page 647 of the evidence is the statement of Martin Turnbull, cousin of Mr. Tague, who admitted that he registered from Mrs. Tague's home (Mr. Tague's mother) on Corey Street, Charlestown, Mass., while his wife and little girl lived in Somerville.

On page 568, his counsel, Mr. Joseph P. O'Connell, admitted that he lived in Brookline, which was his address in the directory at the time he was elected from Boston to the constitutional convention two years ago.

Yet these are the men who want this Congress to disfranchise more than 1,000 American citizens for the very thing they were doing themselves in order to give Mr. Tague the seat in Congress now held by Mr. Fitzgerald.

Mr. Tague was twice elected under the same conditions he now condemns. Even in this contest he sought the support of the political organization which he now charges with colonization, and only when he was refused support did he begin to complain. In our judgment he is by his conduct estopped.

In conclusion, we submit that the whole case of the contestant rests on allegations and assertions with no substantial proof and that the misstatements made by him in connection with the ballots justifies us in rejecting his uncorroborated testimony about illegal registration.

We therefore submit for the action of the House the following resolution in lieu of the resolution offered by the majority of the committee:

Resolved, That John F. Fitzgerald was duly elected a Member of the House of Representatives from the tenth congressional district of the State of Massachusetts in this Congress, and is entitled to a seat therein.

J. W. OVERSTREET.
J. B. JOHNSTON.

U.S. 66TH CONGRESS,
1ST SESSION.

H. RES. 355.

IN THE HOUSE OF REPRESENTATIVES.

OCTOBER 23, 1919.

Mr. GOODALL submitted the following resolution: which was agreed to.

RESOLUTION.

1 *Resolved*, That John F. Fitzgerald was not elected a
2 Member of the House of Representatives from the tenth con-
3 gressional district of the State of Massachusetts in this Con-
4 gress and is not entitled to retain a seat herein.

5 2. That Peter F. Tague was duly elected a Member of
6 the House of Representatives from the tenth congressional
7 district of the State of Massachusetts in this Congress and is
8 entitled to a seat herein.

RESOLUTION

Declaring Peter H. Tague a duly elected Representative from the tenth congressional district of Massachusetts.

By Mr. GOODALL.

OCTOBER 23, 1919.—Agreed to.



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